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From: Presidency
To: Permanent Representatives Committee (Part 2)/Council

No. prev. doc.: 5535/20
No. Cion doc.: 9620/18

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
- General approach

1. The Commission adopted the abovementioned revision proposal¹ on 31 May 2018, and submitted it to the Council and Parliament. The legal basis is Article 81 (Judicial cooperation in civil matters) of the Treaty on the Functioning of the European Union, and the proposal is subject to the ordinary legislative procedure.
2. At its meeting on 3/4 December 2019, the Council adopted a general approach on the abovementioned proposal, except for the Annexes.

¹ 9620/18.

3. The Working Party on Civil Law Matters (Service of documents/Taking of evidence) met on 8 January 2020 and the JHA Counsellors Civil Law Matters (Service of documents/Taking of evidence) met on 20 January 2020 to examine the text of the Annexes on the basis of a text drawn up by the Presidency. At its meeting on 30 January 2020 the JHA Counsellors agreed on the text suggested by the Presidency, subject to some minor changes.
4. At this examination it became clear that the it was necessary to change the text of the general approach and the text of the existing Regulation in order to take into account of the changes to the Annexes that had been agreed.
5. Pursuant to Article 3 of Protocol (No 21) to the Treaties on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, Ireland has decided to opt in to this proposal. The UK has not made use of the possibility set out in Article 3 of Protocol (No 21) to take part in the adoption and application of this proposal². In application of Protocol (No 22) to the Treaties on the Position of Denmark, Denmark does not take part in the adoption of the proposed measures.
6. The Permanent Representatives Committee is accordingly invited to recommend that the Council endorse, as a supplementary general approach, the text of the Annexes to the Regulation on the taking of evidence as it appears in Annex I and the text of the necessary changes to the general approach and the existing Regulation as it appears in Annex II, as an "A" item of the agenda of one of its forthcoming sessions,

² Recitals on the opt-in / opt-out should be reviewed at a later stage, taking into account the situation of the UK with regard to the application of Union law.

FORM A

Request for the taking of evidence referred to in
Article 4 of Council Regulation (EC)... /2001 of.....on cooperation between the courts
of the Member States in the taking of evidence in civil or commercial matters, OJ L ...

1. Reference of the requesting court:

2. Requesting court:

2.1. Name:

2.2. Address:

2.2.1. Street and number/PO box:

2.2.2. Place and post code:

2.2.3. Country:

2.3. Tel:

2.4. Fax (*):

2.5. E-mail:

3. Requested court:

3.1. Name:

* This item is optional.

3.2. Address:

3.2.1. Street and number/PO box:

3.2.2. Place and post code:

3.2.3. Country:

3.3. Tel:

3.4. Fax (*):

3.5. E-mail:

4. In the case brought by the claimant/petitioner(s)¹

4.1. Name:

4.2. Address:

4.2.1. Street and number/PO box:

4.2.2. Place and post code:

4.2.3. Country:

4.3. Tel (*):

4.4. Fax (*):

4.5. E-mail (*):

* This item is optional.

¹ In case there is more than one claimant/petitioner, please provide information as set out in items 4.1. - 4.5.

5. Representatives of the claimant/petitioner

5.1. Name:

5.2. Address:

5.2.1. Street and number/PO box:

5.2.2. Place and post code:

5.2.3. Country:

5.3. Tel:

5.4. Fax (*):

5.5. E-mail:

6. Against the defendant/respondent(s)¹

6.1. Name:

6.2. Address:

6.2.1. Street and number/PO box:

6.2.2. Place and post code:

6.2.3. Country:

6.3. Tel (*):

6.4. Fax (*):

6.5. E-mail (*):

* This item is optional.

¹ In case there is more than one defendant/respondent, please provide information as set out in items 6.1.-6.5.

7. Representatives of defendant/respondent

7.1. Name:

7.2. Address:

7.2.1. Street and number/PO box:

7.2.2. Place and post code:

7.2.3. Country:

7.3. Tel:

7.4. Fax (*):

7.5. E-mail:

8. Presence and participation of the parties

8.1. Parties and, if any, their representatives will be present at the taking of evidence:

8.2. Participation of the parties and, if any, their representatives is requested:

8.3. If any party or its representative will be present at the taking of evidence, interpretation is to be arranged to the following language: BG, ES, CZ, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV, other :

9. Presence and participation of the representatives of the requesting court

9.1. Representatives will be present at the taking of evidence:

9.2. Participation of the representatives is requested:¹

9.2.1. Name:

9.2.2. Title:

9.2.3. Function:

9.2.4. Task:

9.3. If any representative of the requesting court will be present at the taking of evidence, interpretation is to be arranged to the following language: BG, ES, CZ, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV:

10. Nature and subject matter of the case and a brief statement of the facts (in annex, where appropriate):

11. Taking of evidence to be performed

11.1 Description of the taking of evidence to be performed (in annex, where appropriate):

11.2. Examination of witnesses

11.2.1. Name and surname:

11.2.1.1. Date of birth, if available:

11.2.2. Address:

11.2.2.1. Street and number/PO box:

11.2.2.2. Place and post code:

11.2.2.3. Country:

¹ In case there is more than one representative, please provide information as set out in item 9.2.

- 11.2.3. Tel (*):
- 11.2.4. Fax (*):
- 11.2.5. E-mail (*):
- 11.2.6. Questions to be put to the witness or a statement of the facts about which they are to be examined (in annex, where appropriate):
- 11.2.7. Right to refuse to testify under the law of the Member State of the requesting court (in annex, where appropriate): yes no
- 11.2.8. Please examine the witness
 - 11.2.8.1. under oath :
 - 11.2.8.2. on affirmation :
- 11.2.9. Any other information that the requesting court deems necessary (in annex, where appropriate):

11.3. Other taking of evidence

- 11.3.1. documents to be inspected and a description of the requested taking of evidence (in annex, where appropriate):
- 11.3.2. objects to be inspected and a description of the requested taking of evidence (in annex, where appropriate)

12. Please execute the request

- 12.1. in accordance with a special procedure (Article 10(3)) provided for by the law of the Member State of the requesting court described in annex
- 12.2. and/or by the use of communications technology (Article 10(4)) set out in Form N
- 12.3. following information is necessary for the application thereof:.....

* This item is optional.

13. Reasons for not transmitting via the decentralised IT system (Article 6(4))¹

Electronic transmission was not possible due to:

disruption of the IT system

the nature of evidence

exceptional circumstances

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

¹ This item only applies from the date of application of the decentralised IT system in accordance with Article 2(3).

FORM B

Acknowledgement of receipt of a request for the taking of evidence referred to in Article 7(1) of Council Regulation (EC) ... /2001 of on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L ...

1. Reference of the requesting court:
2. Reference of the requested court:
3. Name of the requesting court:
4. Requested court
 - 4.1. Name:
 - 4.2. Address:
 - 4.3. Tel:
 - 4.4. Fax (*):
 - 4.5. E-mail:
5. The request was received on (date of receipt) by the court indicated in point 4 above.

* This item is optional.

6. The request cannot be dealt with because:

6.1. The language used to complete the form is not accepted (Article 5).

6.1.1. Please use one the following languages:

6.2. The document is not legible.

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal

FORM C

Notification of forwarding the request referred to in

Article 7(2) of Council Regulation (EC).../2001 of ... on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L.....

1. Reference of the requesting court:

2. Name of the requesting court:

3. Reference of the requested court:

4. The request does not fall within the jurisdiction of the court indicated in point-4 **3** of the request for taking of evidence and was forwarded to

4.1. Name of the competent court:

4.2. Address:

4.2.1. Street and number/PO box:

4.2.2. Place and post code:

4.2.3. Country:

4.3. Tel:

4.4. Fax (*):

4.5. E-mail:

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

* This item is optional.

FORM D

Request for additional information for the taking of evidence referred to in
Article 8 of Council Regulation (EC) ... /2001 of on cooperation between the courts of the
Member States in the taking of evidence in civil or commercial matters, OJ L...

1. Reference of the requested court:
2. Reference of the requesting court:
3. Name of the requesting court:
4. Name of the requested court:
5. The request cannot be executed without the following additional information:
6. The request cannot be executed before a deposit or advance is made in accordance with Article 18(3). The deposit or advance should be made in the following way:
 - 6.1. Name of account owner:
 - 6.2. Bank name/BIC or other relevant bank code:
 - 6.3. Account number/IBAN:
 - 6.4. ~~Time period for the payment of the deposit or advance~~ **Date by which payment was due:**
 - 6.5. Amount of the deposit or advance requested:

6.6. Currency:

- Euro (EUR) Bulgarian lev (BGN) Croatian kuna (HRK)
- Czech koruna (CZK) Hungarian forint (HUF) Polish zloty (PLN)
- Pound sterling (GBP) Romanian leu (RON) Swedish krona (SEK)
- Other (please specify (ISO code)):

6.7. Reference number of payment/description/message to the recipient:

Done at:

Date :

Signature and/or stamp or electronic signature and /or electronic seal:

FORM E

Acknowledgement of receipt of the deposit or advance referred to in Article 8(2) of Council Regulation (EC) ... /2001 of on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L

1. Reference of the requesting court:
2. Reference of the requested court:
3. Name of the requesting court:
4. Name of the requested court:
5. The deposit or advance was received on (date of receipt) by the court indicated in point 4 above.

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

FORM F

Request for information on delay

(Article 10(1) and Article 17(4) of 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 matters (OJ L))¹

THE FOLLOWING REQUEST WAS SENT BUT NO INFORMATION ON THE OUTCOME OF THE TAKING OF EVIDENCE IS AVAILABLE

1. Name of the requesting court:
2. Reference of the requesting court:
3. Reference of the requested court / central body / competent authority (if available):
4. Name of the requested court / central body / competent authority:
5. The original request for the taking of evidence (form A) or original request for the direct taking of evidence (form L) is attached.

Information at disposal of the requesting court:

5.1. request sent

date.....

5.2. acknowledgement of receipt

date.....

¹ The use of this form is optional.

5.3. notification of delay

date.....

5.4. other information was received

.....

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

FORM G

Reply on request for information on delay

(Article 10(1) of 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 matters (OJ L))¹

1. Name of the requesting court:
2. Reference of the requesting court:
3. Reference of the requested court / central body / competent authority (if available):
4. Name of the requested court / central body / competent authority:
5. THE DELAY WAS DUE TO:
 - 5.1. Request for taking of evidence was not received
 - 5.2. Determination of current address of the person to be heard is in progress
 - 5.3. Service of summons to the person to be heard is in progress
 - 5.4. Person did not appear ~~to~~ at hearing despite being served the summons
 - 5.5. Request replied to on (date). Reply attached
 - 5.6. Payment of a deposit or advance requested on (date) has not been received
 - 5.7. Other:.....
6. It is estimated that the request will be executed by (indicate an estimated date)

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

¹ The use of this form is optional.

FORM H

Notification concerning the request for special procedures and/or for the use of communications technologies referred to in Article 10 (3) and (4) of Council Regulation (EC) ... /2001 of on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L

1. Reference of the requested court:
2. Reference of the requesting court:
3. Name of the requesting court:
4. Name of the requested court:
5. The requirement for execution of the request according to the special procedure indicated in point 12.1. of the request (Form A) could not be complied with because:
 - 5.1. the required procedure is incompatible with the law of the Member State of the requested court:
 - 5.2. the performance of the requested procedure is not possible by reason of major practical difficulties:
6. The requirement for execution of the request for the use of communications technologies indicated in point 12.2. of the request (Form A) could not be complied with because:
 - 6.1. The use of communications technology is incompatible with the law for the Member State of the requested court
 - 6.2. The use of the communications technology is not possible by reason of major practical difficulties

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

FORM I

Notification of the date, time, place of performance of the taking of evidence and the conditions for participation referred to in Article 11(4) and 12(5) of Council Regulation (EC) .../2001 of on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L....

1. Reference of the requesting court:

2. Reference of the requested court:

3. Requesting court

3.1. Name:

3.2. Address:

3.2.1. Street and number/PO box:

3.2.2. Place and post code:


3.2.3. Country:

3.3. Tel:

3.4. Fax (*):

3.5. E-mail:

* This item is optional.

4. Requested court
 - 4.1. Name:
 - 4.2. Address:
 - 4.2.1. Street and number/PO box:
 - 4.2.2. Place and post code:
 - 4.2.3. Country:
 - 4.3. Tel:
 - 4.4. Fax :
 - 4.5. E-mail:
5. Date and time of the performance of the taking of evidence:
6. Place of the performance of the taking of evidence, if different from that referred to in point 4 above:
7. Where appropriate, conditions under which the parties and, if any, their representatives may participate:
8. Where appropriate, conditions under which the representatives of the requesting court may participate:

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

* This item is optional.

FORM J

Notification of delay referred to in Article 15 of Council Regulation (EC) ... /2001 of on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L ...

1. Reference of the requested court:
2. Reference of the requesting court:
3. Name of the requesting court:
4. Name of the requested court:
5. The request cannot be executed within 90 days of receipt for the following reasons:
 - ~~5.1. Request for taking of evidence was not received~~
 - 5.1. Determination of current address of the person to be heard is in progress
 - 5.2. Service of summons to the person to be heard is in progress
 - 5.3. Person did not appear ~~to~~ at hearing despite being served the summons
 - 5.4. Request replied to on (date). Reply attached
 - 5.5. Payment of a deposit or advance requested on (date) has not been received
 - 5.6. Other (**please specify**):
6. It is estimated that the request will be executed by(indicate an estimated date)

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

FORM K

Information on the outcome of the request referred to in Articles 14 and 16 of the Council Regulation (EC) .../2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L

1. Reference of the requested court:
2. Reference of the requesting court:
3. Name of the requesting court:
4. Name of the requested court:
5. The request has been executed

The documents establishing execution of the request are attached:

6. Execution of the request has been refused because:
 - 6.1. the person to be examined has claimed the right to refuse to give evidence or has claimed to be prohibited from giving evidence:
 - 6.1.1. under the law of the Member State of the requested court:
 - 6.1.2. under the law of the Member State of the requesting court:
 - 6.2. The request does not fall within the scope of this Regulation
 - 6.3. Under the law of the Member State of the requested court, the execution of the request does not fall within the functions of the judiciary

6.4. The requesting court has not complied with the request for additional information from the requested court dated (date of the request)

6.5. A deposit or advance asked for in accordance with Article 18(3) has not been made.

7. Other reasons for non-execution:.....

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

FORM L

Request for direct taking of evidence referred to in Article 17 and 17a of Council Regulation (EC) ... /2001 of on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L

1. Reference of the requesting court:
2. Reference of the central body/competent authority(*) :
3. Requesting court:
 - 3.1. Name:
 - 3.2. Address:
 - 3.2.1. Street and number/PO box:
 - 3.2.2. Place and post code:
 - 3.2.3. Country:
 - 3.3. Tel:
 - 3.4. Fax (*):
 - 3.5. E-mail:
4. Central body/competent authority of the requested State
 - 4.1. Name:
 - 4.2. Address:

* This item is optional.

4.2.1. Street and number/PO box:

4.2.2. Place and post code:

4.2.3. Country:

4.3. Tel:

4.4. Fax (*):

4.5. E-mail:

5. In the case brought by the claimant/petitioner(s)¹

5.1. Name:

5.2. Address:

5.2.1. Street and number/PO box:

5.2.2. Place and post code:

5.2.3. Country:

5.3. Tel (*):

5.4. Fax (*):

5.5. E-mail (*):

6. Representatives of the claimant/petitioner

6.1. Name

6.2. Address:

* This item is optional.

¹ In case there is more than one claimant/petitioner, please provide information as set out in items 5.1. - 5.5.

6.2.1. Street and number/PO box:

6.2.2. Place and post code:

6.2.3. Country:

6.3. Tel:

6.4. Fax (*):

6.5. E-mail:

7. Against the defendant/respondent(s)¹

7.1. Name:

7.2. Address:

7.2.1. Street and number/PO box:

7.2.2. Place and post code:

7.2.3. Country:

7.3. Tel (*):

7.4. Fax (*):

7.5. E-mail (*):

8. Representatives of defendant/respondent

8.1. Name:

8.2. Address:

* This item is optional.

¹ In case there is more than one defendant /respondent, please provide information as set out in items 7.1. - 7.5.

8.2.1. Street and number/PO box:

8.2.2. Place and post code:

8.2.3. Country:

8.3. Tel:

8.4. Fax (*):

8.5. E-mail:

9. The taking of evidence shall be performed by:

9.1. Name:

9.2. Title:

9.3. Function:

9.4. Task:

10. Nature and subject matter of the case and a brief statement of the facts (in annex, where appropriate):

11. Taking of evidence to be performed

11.1 Description of the taking of evidence to be performed (in annex, where appropriate):

11.2. Examination of witnesses

11.2.1. First names and surname:

11.2.1.1. Date of birth, if available:

* This item is optional

11.2.2. Address:

11.2.2.1. Street and number/PO box:

11.2.2.2. Place and post code:

11.2.2.3. Country:

11.2.3. Tel (*):

11.2.4. Fax (*):

11.2.5. E-mail (*):

11.2.6. Questions to be put to the witness or a statement of the facts about which they are to be examined (in the annex, where appropriate):

11.2.7. Right to refuse to testify under the law of the Member State of the requesting court (in annex, where appropriate): yes no

11.3. Other taking of evidence (in annex, where appropriate):

12. The requesting court requests to take evidence directly by use of the following communications technology set out in Form N

Done at:

Date: Signature and/or stamp or electronic signature and /or electronic seal:

* This item is optional

FORM M

Information from the central body/competent authority referred to in Article 17 of Council Regulation (EC) ... /2001 of on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, OJ L

1. Reference of the requesting court:
2. Reference of the central body/competent authority:
3. Name of the requesting court:
4. Central body/competent authority
 - 4.1. Name:
 - 4.2. Address:
 - 4.2.1. Street and number/PO box:
 - 4.2.2. Place and post code:
 - 4.2.3. Country:
 - 4.3. Tel:
 - 4.4. Fax (*):
 - 4.5. E-mail:
5. Information from the central body/competent authority
 - 5.1. Direct taking of evidence in accordance with the request is accepted:
 - 5.2. Direct taking of evidence in accordance with the request is accepted under the following conditions (in annex, where appropriate):

* This item is optional

5.3. Direct taking of evidence in accordance with the request is refused for the following reasons:

5.3.1. the request does not fall within the scope of this Regulation:

5.3.2. the request does not contain all of the necessary information pursuant to Article 4:

5.3.3. the direct taking of evidence requested for is contrary to fundamental principles of law of the Member State of the central body/competent authority:

6. The following court was assigned to provide practical assistance in the taking of evidence:

6.1. Name:

6.2. Address:

6.2.1. Street and number/PO box:

6.2.2. Place and post code:

6.2.3. Country:

6.3. Tel:

6.4. Fax (*):

6.5. E-mail:

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

* This item is optional.

FORM N

Information on technical practicalities to conduct a video conference or other distance communication technology

(Article 10(4) and 17a of 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 matters (OJ L))

1. Reference of the requested court (*):
2. Reference of the requesting court (*):
3. Name of the requesting court (*):
4. Name of the requested court (*):
5. Technical data of the requesting court:
 - 5.1. ISDN (*).....
 - 5.2. IP.....
 - 5.3. Tel. No. Court room (*).....
 - 5.4. Other.....
6. Preferred form of connection (in case of more options filled in point 5):
7. Preferred date(s) and time(s) of connection:
 - a. date.....
 - b. time¹.....

* This item is optional.

¹ Local time of requested MS

8. Preferred date(s) and time(s) for the test connection:

a. date.....

b. time ¹.....

c. Contact person for the test connection or other technical assistance:

d. Language for communication: BG, ES, CZ, DE, ET, EL, EN, FR,
 GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK,
SL, FI, SV:

e. Tel. No. in case of technical difficulties during the test connection or the taking of
evidence:

9. Information on interpretation:

a. Assistance for finding an interpreter is required:

The relevant languages: BG, ES, CZ, DE, ET, EL, EN, FR, GA, HR,
IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV, other :

10. Information on whether a recording of taking of evidence will be made²

11. Other:

Done at:

Date:

Signature and/or stamp or electronic signature and /or electronic seal:

¹ Local time of requested MS

² E.g. online record or transcript of the taking of evidence

Current Regulation - Art. 4 in the first sentence of paragraph (1) instead of "form I" it shall read "form L".

Current Regulation – Art. 7 in paragraph (2) last row instead of the "form A" (second written, last row) it shall read "form C".

Current Regulation – Art. 8 in paragraph (1) instead of "form C" it shall read "form D".

Current Regulation – Art. 8 in the first sentence of paragraph (2) instead of "form C" it shall read "form D". In the second sentence of paragraph (2) instead of "form D" it shall read "form E".

Current Regulation – in Art. 10 (1), new subparagraph 2 should be added which shall read as follows: „Where there is no information on the execution of a request after the expiry of 90 days, the requesting court may request such information from the requested court. Standard form F may be used for the request. Standard form G may be used for the reply.

Current Regulation – Art. 10 in paragraph (3) instead of "form E" it shall read "form H".

Current Regulation – Art. 10 in paragraph (4), subparagraph (1), before the ending dot, it should be added ", by using form N."

Current Regulation – Art. 10 in paragraph (4), subparagraph (3) instead of "form E" it shall read "form H".

Current Regulation – Art. 11 in paragraph (4) instead of "form F" it shall read "form I".

Current Regulation – Art. 12 in paragraph (5) instead of "form F" it shall read "form I".

Current Regulation – Art. 14 in paragraph (4) instead of "form H" it shall read "form K".

Current Regulation – Art. 15 in the first sentence instead of "form G" it shall read "form J".

Current Regulation – Art. 16 in the second sentence instead of "form H" it shall read "form K".

Current Regulation – Art. 17. in paragraph (1) instead of "form I" it shall read "form L".

Current Regulation – Art. 17. in paragraph (4) instead of "form J" it shall read "form M".

General approach - In Art. 17a the first sentence of paragraph (2) shall read as follows: "A request for the direct taking of evidence via videoconference or other distance communication technology should be made using Form N. In such case, the requesting court...“
