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From: Presidency
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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

I. INTRODUCTION

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.

¹ 9620/18.

2. Council Regulation (EC) No 1206/2001 on cooperation between the courts of the Member States in the Taking of evidence in civil or commercial matters is an important instrument for European judicial cooperation. The purpose of this instrument is to provide a framework for cross-border judicial assistance between Member States in civil and commercial matters by facilitating the collection of evidence across borders. The revision proposal aims to establish an EU-wide system for the direct, secure and rapid transmission of requests for the taking and execution of evidence by exploiting the advantages of digitalisation, while strengthening procedural safeguards. The Commission proposal calls for the establishment of a mandatory electronic decentralised IT system for that purpose.
3. The European Economic and Social Committee adopted its opinion² on this proposal and the proposal for a Regulation amending Regulation (EC) No 1393/2007 of the European Parliament and of the Council on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (proposal on the Service of documents) on 17 October 2018. The EESC found both proposals to be in line with the digital single market strategy in relation to e-government, especially as regards the need to take steps to modernise public administration and achieve cross-border interoperability.
4. On 13 February 2019, the European Parliament adopted its first-reading position on the Taking of evidence proposal, with 37 amendments to the Commission proposal by 554 votes to 26, with 9 abstentions.
5. On 13 September 2019, the European Data Protection Supervisor submitted Opinion 5/2019 on this proposal and the proposal on the Service of documents³.

² 14013/18.

³ 12245/19.

6. At the JHA Council in June 2019, Ministers agreed that the judicial cooperation in the context of this proposal and the Service of documents proposal should be based on a secure decentralised IT system comprising interconnected national IT systems. Ministers could also, in principle, accept a mandatory IT system but on certain conditions such as a longer transition period, exceptions to the mandatory use and the reference implementation provided by the Commission.
7. The original Commission proposal did not contain any financial statement on the impact on the budget of the EU. During the examination of the proposal, delegations asked for assistance with the IT system to be put in place, such as a reference implementation software that Member States can use as their back-end system instead of a nationally-developed IT system. The Presidency text provides that the Commission will be responsible for the creation, maintenance and future development of the reference implementation software. This obligation will have an appreciable impact on the budget of the EU, including changes in the number of posts. In line with Article 35 (1) subparagraph 2 of the Financial Regulation of the EU⁴ the Presidency has, in cooperation with the Commission, prepared an indicative financial statement⁵ setting out the estimated financial impact of the amendments on the budget, including changes in the number of posts.
8. 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 proposal. 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.

⁴ OJ L 193, 30.7.2018, p.1.

⁵ 14427/19.

II. PRESIDENCY COMPROMISE TEXT

9. Discussions have allowed for considerable progress on substantial issues at technical level. The Presidency is therefore of the opinion that the time has come for the Council to adopt a general approach on the text of the Articles and the recitals of the proposed Regulation, without prejudice to the finalisation of certain issues of a technical or editorial nature in connection with the finalisation of the Annexes.
10. The elements of the compromise text are to be seen as an overall package that aims at providing an efficient framework for cross-border judicial cooperation. The compromise also provides for a delicate balance between different positions of Member States, while at the same time fostering mutual trust among them.

III. STATE OF PLAY

11. At its meeting on 27 November 2019, the Permanent Representatives Committee endorsed the text, subject to a modification in Article 17b, of the draft Regulation that was submitted by the Presidency in the Annex to 13836/1/19 REV 1. Against that background, the Presidency submits to the Council the same text, with the exception of Article 17b, set out in Annex. In this text, changes to the Commission proposal are indicated in **bold** and deletions are marked with ~~strikethrough~~.

IV. CONCLUSION

12. The Presidency invites the Council
 - to endorse, as a general approach, the text of the Regulation on the Taking of evidence as it appears in the Annex as a compromise package, bearing in mind that the Annexes to the Regulation will be finalised at technical level as soon as possible after the Council.

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (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.

- (2) Council Regulation (EC) No 1206/2001⁶ lays down rules on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters.
- (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 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 2019/1111⁷, Regulation (EU) No 1215/2012 of the European Parliament and of the Council⁸ and Regulation (EU) No 650/2012 of the European Parliament and of the Council⁹.**

⁶ 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).

⁷ **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)**

⁸ **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)**

⁹ **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)**

- (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 secure decentralised IT system composed of national IT systems. 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.**
- (3a) The competent authority or authorities under the law of the Member State should be responsible as controllers for 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.**

- (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 laid down in Regulation (EU) 2018/1725¹⁰ and Regulation (EU) 2016/679¹¹, 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.**
- (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 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.**

¹⁰ **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).**

¹¹ **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).**

- (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 law~~ **the documents transmitted through the decentralised IT system** should not be denied **legal effect and admissibility as evidence in the proceedings solely on the grounds that they are in an electronic form** ~~recognition as evidence in other Member States only because of its digital nature~~. **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.**
- (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 Regulation **(EU) No 2019/1111** or Council Regulation (EC) No **4/2009**¹², even where that information has evidentiary value, thus leaving the choice of the most suitable method to the requesting authority.

¹² 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).

- (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 **such as** witness, party or expert ~~domiciled~~ **present** in another Member State, the **requesting** court should take that evidence directly 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. **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.**
- (7) In order to facilitate the taking of evidence by diplomatic officers or consular agents, **each Member State should be free to use** 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. **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.**

- (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 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.
- (9) 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] [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].~~
- (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 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.
- (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 Agreement of 13 April 2016 on Better Law-Making¹³. 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.

¹³ OJ L 123, 12.5.2016, p. 1

(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. **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 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.**

(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 2019¹⁴.

(13) Regulation (EC) No 1206/2001 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1206/2001 is amended as follows:

(1) In Article 1, ~~the following paragraph 4 is added:~~ **paragraph 3 is replaced by:**

‘3. ~~For the purposes of this Regulation, the following definitions shall apply:~~

¹⁴ OJ C 370, 31.10.2019, p. 24.

- (a) ~~€The term 'court' means shall mean any judicial courts and other authorities~~ in a Member States **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 is-competent to take evidence for the purposes of judicial proceedings in civil and commercial matters for the performance of taking of evidence according to this Regulation.**
- (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.**

(2) Article 6 is replaced by the following:

'Article 6

Transmission of requests and other communications

1. Requests and communications pursuant to this Regulation shall be transmitted through a decentralised IT system ~~composed of national IT systems intereconnected by a communication infrastructure enabling the secure and reliable cross-border exchange of information between the national IT systems.~~

2. The general legal framework for the use of trust services set out in Council Regulation (EU) No 910/2014¹⁵ shall apply to the requests and communications transmitted through the decentralised IT system ~~referred to in paragraph 1.~~
3. Where requests and communications referred to in paragraph 1 require or feature a seal or handwritten signature, 'qualified electronic seals' ~~and or~~ 'qualified electronic signatures' as defined in Regulation (EU) No 910/2014 of the European Parliament and of the Council may be used instead.
4. ~~If~~ **Where** transmission in accordance with paragraph 1 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 most appropriate** ~~swiftest possible~~ means, ~~which the requested Member State has indicated it can accept.~~
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.**;

(2a) the following Article 6b is inserted:

¹⁵ 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).

“ Article 6b

Legal effects of electronic documents

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.’”;

(3) **In Article 17, is amended as follows:**

(a) ~~paragraph 2 is deleted;~~

(b) ~~in paragraph 4, the third subparagraph is replaced by the following:~~

~~‘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.’;~~

‘The central body or the competent authority may assign a court of its Member State to provide practical assistance in the taking of evidence.’;

(4) **the following Article 17a is inserted:**

Direct taking of evidence by videoconference or other distance communication technology

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 4(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, where it deems the use of such technology appropriate on account of the specific circumstances of the case.
2. Where a request for direct taking of evidence via videoconference **or other distance communication technology** 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 **assigned to provide practical assistance in the taking of evidence** ~~on whose premises the hearing, is to be held~~ shall agree on the practical arrangements for the **hearing videoconference**. **Upon request the requesting court may be provided with assistance in finding an interpreter.**
3. ~~Where evidence is taken by videoconference:~~
 - (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;~~

~~(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 interpreter.;~~

(5) the following Article 17b is inserted:

'Article 17b

Taking of evidence by diplomatic officers or consular agents

Member States may provide in national law the possibility for their courts to request their
~~D~~**diplomatic officers or consular agents of a Member State 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 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. ';**

~~(6) the following Section 6 is inserted after Article 18:~~

~~'Section 6~~

~~**Mutual recognition**~~

~~*Article 18a*~~

~~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. ';~~

(7) in Article 19, paragraph 2 is replaced by the following:

'2. The Commission is empowered to adopt delegated acts in accordance with Article 20 to amend the Annexes to update the standard forms or to make technical changes to those forms.';

(8) Article 20 is replaced by the following:

Article 20

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 19(2) shall be conferred on the Commission for an ~~indefinite~~ 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-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.**
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.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
 - 6.(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.´;
- (8a) the following Articles 20a, 20b and 20c are inserted:**

Article 20a

Costs of the decentralised IT system

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.**
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.**

3. Paragraphs 1 and 2 shall be without prejudice to the possibility to apply for grants to support activities referred to in those paragraphs under the Union's financial programmes.
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.
5. The Commission shall provide, maintain and support a free of charge implementation of the software components underlying the communication infrastructure access points.

Article 20b

Adoption of implementing acts by the Commission

1. The Commission shall adopt implementing acts establishing the decentralised IT system. By means of implementing acts, the Commission shall adopt the following:
 - (a) the technical specification defining the methods of communication by electronic means for the purpose of the decentralised IT system;
 - (b) the technical specification of the communication protocols;
 - (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;

- (d) the minimum availability objectives and possible technical requirements in this regard for the services provided by the decentralised IT system;
 - (e) the relevant data protection responsibilities and the technical measures necessary for ensuring the IT system's compliance with Regulation (EU) 2016/679 and Regulation (EU) 2018/1725;
 - (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.
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).

Article 20c

Committee procedure

- 1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
 - 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ¹³
- (8b) the following Article 21a is inserted:

'Article 21a

Relationship with other acts

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*).'

(8c) in Article 22, third and fourth subparagraphs are inserted:

'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 changes to this information.

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';

(940) The following Article 22a is inserted:

'Article 22a

Monitoring

1. By [*two years after the date of application*] at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.

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 **to monitor the outputs, results and impacts of this Regulation in collecting and analysing the data and other evidence. 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.**
3. Member States shall provide the Commission, **where available**, with the **following** data ~~and other evidence~~ necessary for the **purposes of monitoring**:
 - (a) **the number of requests for the taking of evidence transmitted in accordance with Article 6(1) and 17(1) respectively;**
 - (b) **the number of requests for the taking of evidence executed in accordance with Article 10 and 17(6) respectively;**
 - (c) **the number of cases in which the request for the taking of evidence was transmitted by other means than through the decentralised IT system in accordance with Article 6(4).’;**

(104) Article 23 is replaced by the following:

Article 23

Evaluation

1. No sooner than [*five 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.
2. Member States shall provide the Commission with the information necessary for the preparation of that report.‘;

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [~~...18 months after the entry into force of the Regulation~~].

However, **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 point 2 of Article 1 regarding paragraphs 1–4 of Article 6 shall apply from ... [*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 20b 24 months after the entry into force*]**.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President