

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

CHAPTER II

TRANSMISSION AND EXECUTION OF REQUESTS

Section 3

Taking of evidence by the requested court

Article 10

General provisions on the execution of the request

1 The requested court shall execute the request without delay and, at the latest, within 90 days of receipt of the request.

2 The requested court shall execute the request in accordance with the law of its Member State.

3 The requesting court may call for the request to be executed in accordance with a special procedure provided for by the law of its Member State, using form A in the Annex. The requested court shall comply with such a requirement unless this procedure is incompatible with the law of the Member State of the requested court or by reason of major practical difficulties. If the requested court does not comply with the requirement for one of these reasons it shall inform the requesting court using form E in the Annex.

4 The requesting court may ask the requested court to use communications technology at the performance of the taking of evidence, in particular by using videoconference and teleconference.

The requested court shall comply with such a requirement unless this is incompatible with the law of the Member State of the requested court or by reason of major practical difficulties.

If the requested court does not comply with the requirement for one of these reasons, it shall inform the requesting court, using form E in the Annex.

If there is no access to the technical means referred to above in the requesting or in the requested court, such means may be made available by the courts by mutual agreement.

Article 11

Performance with the presence and participation of the parties

1 If it is provided for by the law of the Member State of the requesting court, the parties and, if any, their representatives, have the right to be present at the performance of the taking of evidence by the requested court.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1206/2001. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

2 The requesting court shall, in its request, inform the requested court that the parties and, if any, their representatives, will be present and, where appropriate, that their participation is requested, using form A in the Annex. This information may also be given at any other appropriate time.

3 If the participation of the parties and, if any, their representatives, is requested at the performance of the taking of evidence, the requested court shall determine, in accordance with Article 10, the conditions under which they may participate.

4 The requested court shall notify the parties and, if any, their representatives, of the time when, the place where, the proceedings will take place, and, where appropriate, the conditions under which they may participate, using form F in the Annex.

5 Paragraphs 1 to 4 shall not affect the possibility for the requested court of asking the parties and, if any their representatives, to be present at or to participate in the performance of the taking of evidence if that possibility is provided for by the law of its Member State.

Article 12

Performance with the presence and participation of representatives of the requesting court

1 If it is compatible with the law of the Member State of the requesting court, representatives of the requesting court have the right to be present in the performance of the taking of evidence by the requested court.

2 For the purpose of this Article, the term ‘representative’ shall include members of the judicial personnel designated by the requesting court, in accordance with the law of its Member State. The requesting court may also designate, in accordance with the law of its Member State, any other person, such as an expert.

3 The requesting court shall, in its request, inform the requested court that its representatives will be present and, where appropriate, that their participation is requested, using form A in the Annex. This information may also be given at any other appropriate time.

4 If the participation of the representatives of the requesting court is requested in the performance of the taking of evidence, the requested court shall determine, in accordance with Article 10, the conditions under which they may participate.

5 The requested court shall notify the requesting court, of the time when, and the place where, the proceedings will take place, and, where appropriate, the conditions under which the representatives may participate, using form F in the Annex.

Article 13

Coercive measures

Where necessary, in executing a request the requested court shall apply the appropriate coercive measures in the instances and to the extent as are provided for by the law of the Member State of the requested court for the execution of a request made for the same purpose by its national authorities or one of the parties concerned.

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Article 14

Refusal to execute

1 A request for the hearing of a person shall not be executed when the person concerned claims the right to refuse to give evidence or to be prohibited from giving evidence,

- a under the law of the Member State of the requested court; or
- b under the law of the Member State of the requesting court, and such right has been specified in the request, or, if need be, at the instance of the requested court, has been confirmed by the requesting court.

2 In addition to the grounds referred to in paragraph 1, the execution of a request may be refused only if:

- a the request does not fall within the scope of this Regulation as set out in Article 1; or
- b the execution of the request under the law of the Member State of the requested court does not fall within the functions of the judiciary; or
- c the requesting court does not comply with the request of the requested court to complete the request pursuant to Article 8 within 30 days after the requested court asked it to do so; or
- d a deposit or advance asked for in accordance with Article 18(3) is not made within 60 days after the requested court asked for such a deposit or advance.

3 Execution may not be refused by the requested court solely on the ground that under the law of its Member State a court of that Member State has exclusive jurisdiction over the subject matter of the action or that the law of that Member State would not admit the right of action on it.

4 If execution of the request is refused on one of the grounds referred to in paragraph 2, the requested court shall notify the requesting court thereof within 60 days of receipt of the request by the requested court using form H in the Annex.

Article 15

Notification of delay

If the requested court is not in a position to execute the request within 90 days of receipt, it shall inform the requesting court thereof, using form G in the Annex. When it does so, the grounds for the delay shall be given as well as the estimated time that the requested court expects it will need to execute the request.

Article 16

Procedure after execution of the request

The requested court shall send without delay to the requesting court the documents establishing the execution of the request and, where appropriate, return the documents received from the requesting court. The documents shall be accompanied by a confirmation of execution using form H in the Annex.

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Changes and effects yet to be applied to :

- Regulation partial repeal by [EUR 2020/1783](#) Regulation
- Regulation repeal by [EUR 2020/1783](#) Regulation
- Regulation revoked by [S.I. 2018/1257](#) reg. 12