

SCHEDULE 1

Rules 6 and 9

PART I

III TAKING OF EVIDENCE—MEMBER STATES OF THE EUROPEAN UNION

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Interpretation	Rule 34.22
Where a person to be examined is in another Regulation State	Rule 34.23
Evidence for courts of other Regulation States	Rule 34.24

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PART II

III TAKING OF EVIDENCE—MEMBER STATES OF THE EUROPEAN UNION

**Interpretation**

**34.22** In this Section—

- (a) “designated court” has the meaning given in the relevant practice direction;
- (b) “Regulation State” has the same meaning as “Member State” in the Taking of Evidence Regulation, that is all Member States except Denmark;
- (c) “the Taking of Evidence Regulation” means Council Regulation (EC) No. 1206/2001 of 28 May 2001 on co-operation between the courts of the Member States in the taking of evidence in civil and commercial matters.

(The Taking of Evidence Regulation is annexed to the relevant practice direction)

**Where a person to be examined is in another Regulation State**

**34.23.**—(1) This rule applies where a party wishes to take a deposition from a person who is—

- (a) outside the jurisdiction; and
- (b) in a Regulation State.

(2) The court may order the issue of a request to a designated court (“the requested court”) in the Regulation State in which the proposed deponent is.

(3) If the court makes an order for the issue of a request, the party who sought the order must file—

- (a) a draft Form A as set out in the annex to the Taking of Evidence Regulation (request for the taking of evidence);
- (b) except where paragraph (4) applies, a translation of the form;
- (c) an undertaking to be responsible for costs sought by the requested court in relation to—
  - (i) fees paid to experts and interpreters; and
  - (ii) where requested by that party, the use of special procedures or communications technology; and
- (d) an undertaking to be responsible for the court’s expenses.

(4) There is no need to file a translation if—

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- (a) English is one of the official languages of the Regulation State where the examination is to take place; or
  - (b) the Regulation State has indicated, in accordance with the Taking of Evidence Regulation, that English is a language which it will accept.
- (5) Where article 17 of the Taking of Evidence Regulation (direct taking of evidence by the requested court) allows evidence to be taken directly in another Regulation State, the court may make an order for the submission of a request in accordance with that article.
- (6) If the court makes an order for the submission of a request under paragraph (5), the party who sought the order must file—
- (a) a draft Form I as set out in the annex to the Taking of Evidence Regulation (request for direct taking of evidence);
  - (b) except where paragraph (4) applies, a translation of the form; and
  - (c) an undertaking to be responsible for the court’s expenses.

**Evidence for courts of other Regulation States**

- 34.24.**—(1) This rule applies where a court in another Regulation State (“the requesting court”) issues a request for evidence to be taken from a person who is in the jurisdiction.
- (2) An application for an order for evidence to be taken—
- (a) must be made to a designated court;
  - (b) must be accompanied by—
    - (i) the form of request for the taking of evidence as a result of which the application is made; and
    - (ii) where appropriate, a translation of the form of request; and
  - (c) may be made without notice.
- (3) Rule 34.18(1) and (2) apply.
- (4) The examiner must send—
- (a) the deposition to the court for transmission to the requesting court; and
  - (b) a copy of the deposition to the person who obtained the order for evidence to be taken.