

## PRACTICE DIRECTION

DEPOSITIONS AND COURT ATTENDANCE  
BY WITNESSES

**This Practice Direction supplements CPR Part 34**

## WITNESS SUMMONSES

**Issue of witness summons**

- 1.1** A witness summons may require a witness to:
- (1) attend court to give evidence,
  - (2) produce documents to the court, or
  - (3) both,
- on either a date fixed for the hearing or such date as the court may direct<sup>1</sup>.
- 1.2** Two copies of the witness summons<sup>2</sup> should be filed with the court for sealing, one of which will be retained on the court file.
- 1.3** A mistake in the name or address of a person named in a witness summons may be corrected if the summons has not been served.
- 1.4** The corrected summons must be re-sealed by the court and marked 'Amended and Re-Sealed'.

**Witness summons issued in aid of an inferior court or tribunal**

- 2.1** A witness summons may be issued in the High Court or a county court in aid of a court or tribunal which does not have the power to issue a witness summons in relation to the proceedings before it<sup>3</sup>.
- 2.2** A witness summons referred to in paragraph 2.1 may be set aside by the court which issued it<sup>4</sup>.
- 2.3** An application to set aside a witness summons referred to in paragraph 2.1 will be heard:
- (1) in the High Court by a Master at the Royal Courts of Justice or by a district judge in a District Registry, and
  - (2) in a county court by a district judge.
- 2.4** Unless the court otherwise directs, the applicant must give at least 2 days' notice to the party who issued the witness summons of the application, which will normally be dealt with at a hearing.

**Travelling expenses and compensation for loss of time**

- 3.1** When a witness is served with a witness summons he must be offered a sum to cover his travelling expenses to and from the court and compensation for his loss of time<sup>5</sup>.

<sup>1</sup> Rule 34.2(4).

<sup>2</sup> In practice form N20.

<sup>3</sup> Rule 34.4(1).

<sup>4</sup> Rule 34.4(2).

<sup>5</sup> Rule 34.7.

- 3.2** If the witness summons is to be served by the court, the party issuing the summons must deposit with the court:
- (1)** a sum sufficient to pay for the witness's expenses in travelling to the court and in returning to his home or place of work, and
  - (2)** a sum in respect of the period during which earnings or benefit are lost, or such lesser sum as it may be proved that the witness will lose as a result of his attendance at court in answer to the witness summons.
- 3.3** The sum referred to in 3.2(2) is to be based on the sums payable to witnesses attending the Crown Court<sup>1</sup>.
- 3.4** Where the party issuing the witness summons wishes to serve it himself<sup>2</sup>, he must:
- (1)** notify the court in writing that he wishes to do so, and
  - (2)** at the time of service offer the witness the sums mentioned in paragraph 3.2 above.

## DEPOSITIONS

### To be taken in England and Wales for use as evidence in proceedings in courts in England and Wales

- 4.1** A party may apply for an order for a person to be examined on oath before:
- (1)** a judge,
  - (2)** an examiner of the court, or
  - (3)** such other person as the court may appoint<sup>3</sup>.
- 4.2** The party who obtains an order for the examination of a deponent<sup>4</sup> before an examiner of the court<sup>5</sup> must:
- (1)** apply to the Foreign Process Section of the Masters' Secretary's Department at the Royal Courts of Justice for the allocation of an examiner,
  - (2)** when allocated, provide the examiner with copies of all documents in the proceedings necessary to inform the examiner of the issues, and
  - (3)** pay the deponent a sum to cover his travelling expenses to and from the examination and compensation for his loss of time<sup>6</sup>.
- 4.3** In ensuring that the deponent's evidence is recorded in full, the court or the examiner may permit it to be recorded on audiotape or videotape, but the deposition<sup>7</sup> must always be recorded in writing by him or by a competent shorthand writer or stenographer.
- 4.4** If the deposition is not recorded word for word, it must contain, as nearly as may be, the statement of the deponent; the examiner may record word for word any particular questions and answers which appear to him to have special importance.
- 4.5** If a deponent objects to answering any question or where any objection is taken to any question, the examiner must:
- (1)** record in the deposition or a document attached to it –
    - (a)** the question,

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<sup>1</sup> Fixed pursuant to the Prosecution of Offences Act 1985 and the Costs in Criminal Cases General Regulations 1986.

<sup>2</sup> Rule 34.6(1).

<sup>3</sup> Rule 34.8(3).

<sup>4</sup> See rule 34.8(2) for explanation of 'deponent' and 'deposition'.

<sup>5</sup> For the appointment of examiners of the court see rule 34.15.

<sup>6</sup> Rule 34.8(6).

<sup>7</sup> See rule 34.8(2) for explanation of 'deponent' and 'deposition'.

- (b) the nature of and grounds for the objection, and
- (c) any answer given, and
- (2) give his opinion as to the validity of the objection and must record it in the deposition or a document attached to it.  
The court will decide as to the validity of the objection and any question of costs arising from it.

**4.6 Documents and exhibits must:**

- (1) have an identifying number or letter marked on them by the examiner, and
- (2) be preserved by the party or his legal representative<sup>1</sup> who obtained the order for the examination, or as the court or the examiner may direct.

**4.7 The examiner may put any question to the deponent as to:**

- (1) the meaning of any of his answers, or
- (2) any matter arising in the course of the examination.

**4.8 Where a deponent:**

- (1) fails to attend the examination, or
- (2) refuses to:
  - (a) be sworn, or
  - (b) answer any lawful question, or
  - (c) produce any document,the examiner will sign a certificate<sup>2</sup> of such failure or refusal and may include in his certificate any comment as to the conduct of the deponent or of any person attending the examination.

**4.9 The party who obtained the order for the examination must file the certificate with the court and may apply for an order that the deponent attend for examination or as may be<sup>3</sup>. The application may be made without notice<sup>4</sup>.**

**4.10 The court will make such order on the application as it thinks fit including an order for the deponent to pay any costs resulting from his failure or refusal<sup>5</sup>.**

**4.11 A deponent who wilfully refuses to obey an order made against him under Part 34 may be proceeded against for contempt of court.**

**4.12 A deposition must:**

- (1) be signed by the examiner,
- (2) have any amendments to it initialled by the examiner and the deponent,
- (3) be endorsed by the examiner with –
  - (a) a statement of the time occupied by the examination, and
  - (b) a record of any refusal by the deponent to sign the deposition and of his reasons for not doing so, and
- (4) be sent by the examiner to the court where the proceedings are taking place for filing on the court file.

**4.13 Rule 34.14 deals with the fees and expenses of an examiner.**

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1 For the definition of legal representative see rule 2.3.

2 Rule 34.10.

3 Rule 34.10(2) and (3).

4 Rule 34.10(3).

5 Rule 34.10(4).

**Depositions to be taken abroad for use as evidence in proceedings before courts in England and Wales (where the Taking of Evidence Regulation does not apply)**

- 5.1** Where a party wishes to take a deposition from a person outside the jurisdiction, the High Court may order the issue of a letter of request to the judicial authorities of the country in which the proposed deponent is<sup>1</sup>.
- 5.2** An application for an order referred to in paragraph 5.1 should be made by application notice in accordance with Part 23.
- 5.3** The documents which a party applying for an order for the issue of a letter of request must file with his application notice are set out in rule 34.13(6). They are as follows:
- (1)** a draft letter of request in the form set out in Annex A to this practice direction,
  - (2)** a statement of the issues relevant to the proceedings,
  - (3)** a list of questions or the subject matter of questions to be put to the proposed deponent,
  - (4)** a translation of the documents in (1), (2) and (3) above, unless the proposed deponent is in a country of which English is an official language, and
  - (5)** an undertaking to be responsible for the expenses of the Secretary of State

In addition to the documents listed above the party applying for the order must file a draft order.

- 5.4** The above documents should be filed with the Masters' Secretary in Room E214, Royal Courts of Justice, Strand, London WC2A 2LL.
- 5.5** The application will be dealt with by the Senior Master of the Queen's Bench Division of the High Court who will, if appropriate, sign the letter of request.
- 5.6** Attention is drawn to the provisions of rule 23.10 (application to vary or discharge an order made without notice).
- 5.7** If parties are in doubt as to whether a translation under paragraph 5.3(4) above is required, they should seek guidance from the Foreign Process Section of the Masters' Secretary's Department.
- 5.8** A special examiner appointed under rule 34.13(4) may be the British Consul or the Consul-General or his deputy in the country where the evidence is to be taken if:
- (1)** there is in respect of that country a Civil Procedure Convention providing for the taking of evidence in that country for the assistance of proceedings in the High Court or other court in this country, or
  - (2)** with the consent of the Secretary of State.
- 5.9** The provisions of paragraphs 4.1 to 4.12 above apply to the depositions referred to in this paragraph.

**Depositions to be taken in England and Wales for use as evidence in proceedings before courts abroad pursuant to letters of request (where the Taking of Evidence Regulation does not apply)**

- 6.1** Section II of Part 34 relating to obtaining evidence for foreign courts applies to letters of request and should be read in conjunction with this part of the practice direction.

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<sup>1</sup> Rule 34.13(1).

- 6.2** The Evidence (Proceedings in Other Jurisdictions) Act 1975 applies to these depositions.
- 6.3** The written evidence supporting an application under rule 34.17 (which should be made by application notice – see Part 23) must include or exhibit –
- (1) a statement of the issues relevant to the proceedings;
  - (2) a list of questions or the subject matter of questions to be put to the proposed deponent;
  - (3) a draft order; and
  - (4) a translation of the documents in (1) and (2) into English, if necessary.
- 6.4**
- (1) The Senior Master will send to the Treasury Solicitor any request –
    - (a) forwarded by the Secretary of State with a recommendation that effect should be given to the request without requiring an application to be made; or
    - (b) received by him in pursuance of a Civil Procedure Convention providing for the taking of evidence of any person in England and Wales to assist a court or tribunal in a foreign country where no person is named in the document as the applicant.
  - (2) In relation to such a request, the Treasury Solicitor may, with the consent of the Treasury –
    - (a) apply for an order under the 1975 Act; and
    - (b) take such other steps as are necessary to give effect to the request.
- 6.5** The order for the deponent to attend and be examined together with the evidence upon which the order was made must be served on the deponent.
- 6.6** Attention is drawn to the provisions of rule 23.10 (application to vary or discharge an order made without notice).
- 6.7** Arrangements for the examination to take place at a specified time and place before an examiner of the court or such other person as the court may appoint shall be made by the applicant for the order and approved by the Senior Master.
- 6.8** The provisions of paragraph 4.2 to 4.12 apply to the depositions referred to in this paragraph, except that the examiner must send the deposition to the Senior Master.  
(For further information about evidence see Part 32 and the practice direction which supplements it.)

## TAKING OF EVIDENCE BETWEEN EU MEMBER STATES

### Taking of Evidence Regulation

- 7.1** Where evidence is to be taken –
- (a) from a person in another Member State of the European Union for use as evidence in proceedings before courts in England and Wales; or
  - (b) from a person in England and Wales for use as evidence in proceedings before a court in another Member State,  
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 or commercial matters ('the Taking of Evidence Regulation') applies.
- 7.2** The Taking of Evidence Regulation is annexed to this practice direction as Annex B.
- 7.3** The Taking of Evidence Regulation does not apply to Denmark. In relation to Denmark, therefore, rule 34.13 and Section II of Part 34 will continue to apply.

(Article 21(1) of the Taking of Evidence Regulation provides that the Regulation prevails over other provisions contained in bilateral or multilateral agreements or arrangements concluded by the Member States and in particular the Hague Convention of 1 March 1954 on Civil Procedure and the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters)

Originally published in the official languages of the European Community in the *Official Journal of the European Communities* by the Office for Official Publications of the European Communities.

### **Meaning of ‘designated court’**

- 8.1** In accordance with the Taking of Evidence Regulation, each Regulation State has prepared a list of courts competent to take evidence in accordance with the Regulation indicating the territorial and, where appropriate, special jurisdiction of those courts.
- 8.2** Where Part 34, Section III refers to a ‘designated court’ in relation to another Regulation State, the reference is to the court, referred to in the list of competent courts of that State, which is appropriate to the application in hand.
- 8.3** Where the reference is to the ‘designated court’ in England and Wales, the reference is to the appropriate competent court in the jurisdiction. The designated courts for England and Wales are listed in Annex C to this practice direction.

### **Central Body**

- 9.1** The Taking of Evidence Regulation stipulates that each Regulation State must nominate a Central Body responsible for –
  - (a) supplying information to courts;
  - (b) seeking solutions to any difficulties which may arise in respect of a request; and
  - (c) forwarding, in exceptional cases, at the request of a requesting court, a request to the competent court.
- 9.2** The United Kingdom has nominated the Senior Master, Queen’s Bench Division, to be the Central Body for England and Wales.
- 9.3** The Senior Master, as Central Body, has been designated responsible for taking decisions on requests pursuant to Article 17 of the Regulation. Article 17 allows a court to submit a request to the Central Body or a designated competent authority in another Regulation State to take evidence directly in that State.

### **Evidence to be taken in another Regulation State for use in England and Wales**

- 10.1** Where a person wishes to take a deposition from a person in another Regulation State, the court where the proceedings are taking place may order the issue of a request to the designated court in the Regulation State ( Rule 34.23(2)). The form of request is prescribed as Form A in the Taking of Evidence Regulation.
- 10.2** An application to the court for an order under rule 34.23(2) should be made by application notice in accordance with Part 23.

- 10.3** Rule 34.23(3) provides that the party applying for the order must file a draft form of request in the prescribed form. Where completion of the form requires attachments or documents to accompany the form, these must also be filed.
- 10.4** If the court grants an order under rule 34.23 (2), it will send the form of request directly to the designated court.
- 10.5** Where the taking of evidence requires the use of an expert, the designated court may require a deposit in advance towards the costs of that expert. The party who obtained the order is responsible for the payment of any such deposit which should be deposited with the court for onward transmission. Under the provisions of the Taking of Evidence Regulation, the designated court is not required to execute the request until such payment is received.
- 10.6** Article 17 permits the court where proceedings are taking place to take evidence directly from a deponent in another Regulation State if the conditions of the article are satisfied. Direct taking of evidence can only take place if evidence is given voluntarily without the need for coercive measures. Rule 34.23(5) provides for the court to make an order for the submission of a request to take evidence directly. The form of request is Form I annexed to the Taking of Evidence Regulation and rule 34.23(6) makes provision for a draft of this form to be filed by the party seeking the order. An application for an order under rule 34.23(5) should be by application notice in accordance with Part 23.
- 10.7** Attention is drawn to the provisions of rule 23.10 (application to vary or discharge an order made without notice).

### **Evidence to be taken in England and Wales for use in another Regulation State**

- 11.1** Where a designated court in England and Wales receives a request to take evidence from a court in a Regulation State, the court will send the request to the Treasury Solicitor.
- 11.2** On receipt of the request, the Treasury Solicitor may, with the consent of the Treasury, apply for an order under rule 34.24.
- 11.3** An application to the court for an order must be accompanied by the Form of request to take evidence and any accompanying documents, translated if required under paragraph 11.4.
- 11.4** The United Kingdom has indicated that, in addition to English, it will accept French as a language in which documents may be submitted. Where the form or request and any accompanying documents are received in French they will be translated into English by the Treasury Solicitor.
- 11.5** The order for the deponent to attend and be examined together with the evidence on which the order was made must be served on the deponent.
- 11.6** Arrangements for the examination to take place at a specified time and place shall be made by the Treasury Solicitor and approved by the court.
- 11.7** The court shall send details of the arrangements for the examination to such of
- (a) the parties and, if any, their representatives; or
  - (b) the representatives of the foreign court, who have indicated, in accordance with the Taking of Evidence Regulation, that they wish to be present at the examination.
- 11.8** The provisions of paragraph 4.3 to 4.12 apply to the depositions referred to in this paragraph.

# Annex A

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## **Draft Letter of Request (where the Taking of Evidence Regulation does not apply)**

To the Competent Judicial Authority of \_\_\_\_\_ in the \_\_\_\_\_ of  
I [name] Senior Master of the Queen's Bench Division of the Supreme Court of England and  
Wales respectfully request the assistance of your court with regard to the following matters.

- 1 A claim is now pending in the \_\_\_\_\_ Division of the High Court of Justice in England and Wales entitled as follows [*set out full title and claim number*] in which [name] of [address] is the claimant and [name] of [address] is the defendant.
- 2 The names and addresses of the representatives or agents of [*set out names and addresses of representatives of the parties*].
- 3 The claim by the claimant is for:-
  - (a) [*set out the nature of the claim*]
  - (b) [*the relief sought, and*]
  - (c) [*a summary of the facts.*]
- 4 It is necessary for the purposes of justice and for the due determination of the matters in dispute between the parties that you cause the following witnesses, who are resident within your jurisdiction, to be examined. The names and addresses of the witnesses are as follows:
- 5 The witnesses should be examined on oath or if that is not possible within your laws or is impossible of performance by reason of the internal practice and procedure of your court or by reason of practical difficulties, they should be examined in accordance with whatever procedure your laws provide for in these matters.
- 6 Either/  
The witnesses should be examined in accordance with the list of questions annexed hereto.  
Or/  
The witnesses should be examined regarding [*set out full details of evidence sought*]  
N.B. Where the witness is required to produce documents, these should be clearly identified.
- 7 I would ask that you cause me, or the agents of the parties (if appointed), to be informed of the date and place where the examination is to take place.
- 8 Finally, I request that you will cause the evidence of the said witnesses to be reduced into writing and all documents produced on such examinations to be duly marked for identification and that you will further be pleased to authenticate such examinations by the seal of your court or in such other way as is in accordance with your procedure and return the written evidence and documents produced to me addressed as follows:  
Senior Master of the Queen's Bench Division  
Royal Courts of Justice  
Strand  
London WC2A 2LL  
England



## Council Regulation (EC) No 1206/2001

27.6.2001

EN

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### I

*(Acts whose publication is obligatory)*

## 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 COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) and Article 67(1) thereof,

Having regard to the initiative of the Federal Republic of Germany<sup>(1)</sup>,

Having regard to the opinion of the European Parliament<sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>(3)</sup>,

Whereas:

- (1) The European Union has set itself the objective of maintaining and developing the European Union as an area of freedom, security and justice in which the free movement of persons is ensured. For the gradual establishment of such an area, the Community is to adopt, among others, the measures relating to judicial cooperation in civil matters needed for the proper functioning of the internal market.
- (2) For the purpose of the proper functioning of the internal market, cooperation between courts in the taking of evidence should be improved, and in particular simplified and accelerated.
- (3) At its meeting in Tampere on 15 and 16 October 1999, the European Council recalled that new procedural legislation in cross-border cases, in particular on the taking of evidence, should be prepared.
- (4) This area falls within the scope of Article 65 of the Treaty.

<sup>(1)</sup> OJ C 314, 3.11.2000, p. 2.

<sup>(2)</sup> Opinion delivered on 14 March 2001 (not yet published in the Official Journal).

<sup>(3)</sup> Opinion delivered on 28 February 2001 (not yet published in the Official Journal).

- (5) The objectives of the proposed action, namely the improvement of cooperation between the courts on the taking of evidence in civil or commercial matters, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level. The Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.

- (6) To date, there is no binding instrument between all the Member States concerning the taking of evidence. The Hague Convention of 18 March 1970 on the taking of evidence abroad in civil or commercial matters applies between only 11 Member States of the European Union.

- (7) As it is often essential for a decision in a civil or commercial matter pending before a court in a Member State to take evidence in another Member State, the Community's activity cannot be limited to the field of transmission of judicial and extrajudicial documents in civil or commercial matters which falls within the scope of Council Regulation (EC) No 1348/2000 of 29 May 2000 on the serving in the Member States of judicial and extrajudicial documents in civil or commercial matters<sup>(4)</sup>. It is therefore necessary to continue the improvement of cooperation between courts of Member States in the field of taking of evidence.

- (8) The efficiency of judicial procedures in civil or commercial matters requires that the transmission and execution of requests for the performance of taking of evidence is to be made directly and by the most rapid means possible between Member States' courts.

<sup>(4)</sup> OJ L 160, 30.6.2000, p. 37.

- (9) Speed in transmission of requests for the performance of taking of evidence warrants the use of all appropriate means, provided that certain conditions as to the legibility and reliability of the document received are observed. So as to ensure the utmost clarity and legal certainty the request for the performance of taking of evidence must be transmitted on a form to be completed in the language of the Member State of the requested court or in another language accepted by that State. For the same reasons, forms should also be used as far as possible for further communication between the relevant courts.
- (10) A request for the performance of the taking of evidence should be executed expeditiously. If it is not possible for the request to be executed within 90 days of receipt by the requested court, the latter should inform the requesting court accordingly, stating the reasons which prevent the request from being executed swiftly.
- (11) To secure the effectiveness of this Regulation, the possibility of refusing to execute the request for the performance of taking of evidence should be confined to strictly limited exceptional situations.
- (12) The requested court should execute the request in accordance with the law of its Member State.
- (13) The parties and, if any, their representatives, should be able to be present at the performance of the taking of evidence, if that is provided for by the law of the Member State of the requesting court, in order to be able to follow the proceedings in a comparable way as if evidence were taken in the Member State of the requesting court. They should also have the right to request to participate in order to have a more active role in the performance of the taking of evidence. However, the conditions under which they may participate should be determined by the requested court in accordance with the law of its Member State.
- (14) The representatives of the requesting court should be able to be present at the performance of the taking of evidence, if that is compatible with the law of the Member State of the requesting court, in order to have an improved possibility of evaluation of evidence. They should also have the right to request to participate, under the conditions laid down by the requested court in accordance with the law of its Member State, in order to have a more active role in the performance of the taking of evidence.
- (15) In order to facilitate the taking of evidence it should be possible for a court in a Member State, in accordance with the law of its Member State, to take evidence directly in another Member State, if accepted by the latter, and under the conditions determined by the central body or competent authority of the requested Member State.
- (16) The execution of the request, according to Article 10, should not give rise to a claim for any reimbursement of taxes or costs. Nevertheless, if the requested court requires reimbursement, the fees paid to experts and interpreters, as well as the costs occasioned by the application of Article 10(3) and (4), should not be borne by that court. In such a case, the requesting court is to take the necessary measures to ensure reimbursement without delay. Where the opinion of an expert is required, the requested court may, before executing the request, ask the requesting court for an adequate deposit or advance towards the costs.
- (17) This Regulation should prevail over the provisions applying to its field of application, contained in international conventions concluded by the Member States. Member States should be free to adopt agreements or arrangements to further facilitate cooperation in the taking of evidence.
- (18) The information transmitted pursuant to this Regulation should enjoy protection. Since Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>(1)</sup>, and Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector<sup>(2)</sup>, are applicable, there is no need for specific provisions on data protection in this Regulation.
- (19) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999<sup>(3)</sup> laying down the procedures for the exercise of implementing powers conferred on the Commission.
- (20) For the proper functioning of this Regulation, the Commission should review its application and propose such amendments as may appear necessary.
- (21) The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on the European Union and to the Treaty establishing the European Community, have given notice of their wish to take part in the adoption and application of this Regulation.
- <sup>(1)</sup> OJ L 281, 23.11.1995, p. 31.  
<sup>(2)</sup> OJ L 24, 30.1.1998, p. 1.  
<sup>(3)</sup> OJ L 184, 17.7.1999, p. 23.

- (22) Denmark, in accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, is not participating in the adoption of this Regulation, and is therefore not bound by it nor subject to its application,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

##### Scope

1. This Regulation shall apply in civil or commercial matters where the court of a Member State, in accordance with the provisions of the law of that State, requests:

- (a) the competent court of another Member State to take evidence; or
- (b) to take evidence directly in another Member State.

2. A request shall not be made to obtain evidence which is not intended for use in judicial proceedings, commenced or contemplated.

3. In this Regulation, the term 'Member State' shall mean Member States with the exception of Denmark.

#### Article 2

##### Direct transmission between the courts

1. Requests pursuant to Article 1(1)(a), hereinafter referred to as 'requests', shall be transmitted by the court before which the proceedings are commenced or contemplated, hereinafter referred to as the 'requesting court', directly to the competent court of another Member State, hereinafter referred to as the 'requested court', for the performance of the taking of evidence.

2. Each Member State shall draw up a list of the courts competent for the performance of taking of evidence according to this Regulation. The list shall also indicate the territorial and, where appropriate, the special jurisdiction of those courts.

#### Article 3

##### Central body

1. Each Member State shall designate a central body responsible for:

- (a) supplying information to the courts;
- (b) seeking solutions to any difficulties which may arise in respect of a request;
- (c) forwarding, in exceptional cases, at the request of a requesting court, a request to the competent court.

2. A federal State, a State in which several legal systems apply or a State with autonomous territorial entities shall be free to designate more than one central body.

3. Each Member State shall also designate the central body referred to in paragraph 1 or one or several competent authority(ies) to be responsible for taking decisions on requests pursuant to Article 17.

## CHAPTER II

### TRANSMISSION AND EXECUTION OF REQUESTS

#### Section 1

##### Transmission of the request

#### Article 4

##### Form and content of the request

1. The request shall be made using form A or, where appropriate, form I in the Annex. It shall contain the following details:

- (a) the requesting and, where appropriate, the requested court;
- (b) the names and addresses of the parties to the proceedings and their representatives, if any;
- (c) the nature and subject matter of the case and a brief statement of the facts;
- (d) a description of the taking of evidence to be performed;
- (e) where the request is for the examination of a person:
  - the name(s) and address(es) of the person(s) to be examined,
  - the questions to be put to the person(s) to be examined or a statement of the facts about which he is (they are) to be examined,
  - where appropriate, a reference to a right to refuse to testify under the law of the Member State of the requesting court,

— any requirement that the examination is to be carried out under oath or affirmation in lieu thereof, and any special form to be used,

— where appropriate, any other information that the requesting court deems necessary;

- (f) where the request is for any other form of taking of evidence, the documents or other objects to be inspected;
- (g) where appropriate, any request pursuant to Article 10(3) and (4), and Articles 11 and 12 and any information necessary for the application thereof.

2. The request and all documents accompanying the request shall be exempted from authentication or any equivalent formality.

3. Documents which the requesting court deems it necessary to enclose for the execution of the request shall be accompanied by a translation into the language in which the request was written.

#### Article 5

#### Language

The request and communications pursuant to this Regulation shall be drawn up in the official language of the requested Member State or, if there are several official languages in that Member State, in the official language or one of the official languages of the place where the requested taking of evidence is to be performed, or in another language which the requested Member State has indicated it can accept. Each Member State shall indicate the official language or languages of the institutions of the European Community other than its own which is or are acceptable to it for completion of the forms.

#### Article 6

#### Transmission of requests and other communications

Requests and communications pursuant to this Regulation shall be transmitted by the swiftest possible means, which the requested Member State has indicated it can accept. The transmission may be carried out by any appropriate means, provided that the document received accurately reflects the content of the document forwarded and that all information in it is legible.

#### Section 2

#### Receipt of request

#### Article 7

#### Receipt of request

1. Within seven days of receipt of the request, the requested competent court shall send an acknowledgement of receipt to the requesting court using form B in the Annex. Where the request does not comply with the conditions laid down in Articles 5 and 6, the requested court shall enter a note to that effect in the acknowledgement of receipt.

2. Where the execution of a request made using form A in the Annex, which complies with the conditions laid down in Article 5, does not fall within the jurisdiction of the court to which it was transmitted, the latter shall forward the request to the competent court of its Member State and shall inform the requesting court thereof using form A in the Annex.

#### Article 8

#### Incomplete request

1. If a request cannot be executed because it does not contain all of the necessary information pursuant to Article 4, the requested court shall inform the requesting court thereof without delay and, at the latest, within 30 days of receipt of the request using form C in the Annex, and shall request it to send the missing information, which should be indicated as precisely as possible.

2. If a request cannot be executed because a deposit or advance is necessary in accordance with Article 18(3), the requested court shall inform the requesting court thereof without delay and, at the latest, within 30 days of receipt of the request using form C in the Annex and inform the requesting court how the deposit or advance should be made. The requested Court shall acknowledge receipt of the deposit or advance without delay, at the latest within 10 days of receipt of the deposit or the advance using form D.

#### Article 9

#### Completion of the request

1. If the requested court has noted on the acknowledgement of receipt pursuant to Article 7(1) that the request does not comply with the conditions laid down in Articles 5 and 6 or has informed the requesting court pursuant to Article 8 that the request cannot be executed because it does not contain all of the necessary information pursuant to Article 4, the time limit pursuant to Article 10 shall begin to run when the requested court received the request duly completed.

2. Where the requested court has asked for a deposit or advance in accordance with Article 18(3), this time limit shall begin to run when the deposit or the advance is made.

### 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.

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.

#### 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.

#### Section 4

### Direct taking of evidence by the requesting court

#### Article 17

1. Where a court requests to take evidence directly in another Member State, it shall submit a request to the central body or the competent authority referred to in Article 3(3) in that State, using form I in the Annex.

2. Direct taking of evidence may only take place if it can be performed on a voluntary basis without the need for coercive measures.

Where the direct taking of evidence implies that a person shall be heard, the requesting court shall inform that person that the performance shall take place on a voluntary basis.

3. The taking of evidence shall be performed by a member of the judicial personnel or by any other person such as an expert, who will be designated, in accordance with the law of the Member State of the requesting court.

4. Within 30 days of receiving the request, the central body or the competent authority of the requested Member State shall inform the requesting court if the request is accepted and, if necessary, under what conditions according to the law of its Member State such performance is to be carried out, using form J.

In particular, the central body or the competent authority may assign a court of its Member State to take part in the performance of the taking of evidence in order to ensure the proper application of this Article and the conditions that have been set out.

The central body or the competent authority shall encourage the use of communications technology, such as videoconferences and teleconferences.

5. The central body or the competent authority may refuse direct taking of evidence only if:

- (a) the request does not fall within the scope of this Regulation as set out in Article 1;
- (b) the request does not contain all of the necessary information pursuant to Article 4; or
- (c) the direct taking of evidence requested is contrary to fundamental principles of law in its Member State.

6. Without prejudice to the conditions laid down in accordance with paragraph 4, the requesting court shall execute the request in accordance with the law of its Member State.

## Section 5

### Costs

#### Article 18

1. The execution of the request, in accordance with Article 10, shall not give rise to a claim for any reimbursement of taxes or costs.

2. Nevertheless, if the requested court so requires, the requesting court shall ensure the reimbursement, without delay, of:

- the fees paid to experts and interpreters, and
- the costs occasioned by the application of Article 10(3) and (4).

The duty for the parties to bear these fees or costs shall be governed by the law of the Member State of the requesting court.

3. Where the opinion of an expert is required, the requested court may, before executing the request, ask the requesting court for an adequate deposit or advance towards the requested costs. In all other cases, a deposit or advance shall not be a condition for the execution of a request.

The deposit or advance shall be made by the parties if that is provided for by the law of the Member State of the requesting court.

## CHAPTER III

### FINAL PROVISIONS

#### Article 19

### Implementing rules

1. The Commission shall draw up and regularly update a manual, which shall also be available electronically, containing the information provided by the Member States in accordance with Article 22 and the agreements or arrangements in force, according to Article 21.

2. The updating or making of technical amendments to the standard forms set out in the Annex shall be carried out in accordance with the advisory procedure set out in Article 20(2).

#### Article 20

### Committee

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.

3. The Committee shall adopt its Rules of Procedure.

#### Article 21

### Relationship with existing or future agreements or arrangements between Member States

1. This Regulation shall, in relation to matters to which it applies, prevail over other provisions contained in bilateral or multilateral agreements or arrangements concluded by the Member States and in particular the Hague Convention of 1 March 1954 on Civil Procedure and the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, in relations between the Member States party thereto.

2. This Regulation shall not preclude Member States from maintaining or concluding agreements or arrangements between two or more of them to further facilitate the taking of evidence, provided that they are compatible with this Regulation.

3. Member States shall send to the Commission:

- (a) by 1 July 2003, a copy of the agreements or arrangements maintained between the Member States referred to in paragraph 2;
- (b) a copy of the agreements or arrangements concluded between the Member States referred to in paragraph 2 as well as drafts of such agreements or arrangements which they intend to adopt; and
- (c) any denunciation of, or amendments to, these agreements or arrangements.

#### Article 22

#### Communication

By 1 July 2003 each Member State shall communicate to the Commission the following:

- (a) the list pursuant to Article 2(2) indicating the territorial and, where appropriate, the special jurisdiction of the courts;
- (b) the names and addresses of the central bodies and competent authorities pursuant to Article 3, indicating their territorial jurisdiction;

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 28 May 2001.

- (c) the technical means for the receipt of requests available to the courts on the list pursuant to Article 2(2);
- (d) the languages accepted for the requests as referred to in Article 5.

Member States shall inform the Commission of any subsequent changes to this information.

#### Article 23

#### Review

No later than 1 January 2007, and every five years thereafter, the Commission shall present to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Regulation, paying special attention to the practical application of Article 3(1)(c) and 3, and Articles 17 and 18.

#### Article 24

#### Entry into force

- 1. This Regulation shall enter into force on 1 July 2001.
- 2. This Regulation shall apply from 1 January 2004, except for Articles 19, 21 and 22, which shall apply from 1 July 2001.

*For the Council*

*The President*

T. BODSTRÖM



## ANNEX

## FORM A

## Request for the taking of evidence

(Article 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 or commercial matters (OJ L 174, 27.6.2001, p. 1))

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 No/PO box:
    - 3.2.2. Place and postcode:
    - 3.2.3. Country:
  - 3.3. Tel.
  - 3.4. Fax
  - 3.5. E-mail:
4. Requested court:
  - 4.1. Name:
  - 4.2. Address:
    - 4.2.1. Street and No/PO box:
    - 4.2.2. Place and postcode:
    - 4.2.3. Country:
  - 4.3. Tel.
  - 4.4. Fax
  - 4.5. E-mail:
5. In the case brought by the claimant/petitioner:
  - 5.1. Name:
  - 5.2. Address:
    - 5.2.1. Street and No/PO box:
    - 5.2.2. Place and postcode:
    - 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:
    - 6.2.1. Street and No/PO box:
    - 6.2.2. Place and postcode:
    - 6.2.3. Country:
  - 6.3. Tel.
  - 6.4. Fax
  - 6.5. E-mail:
- 7. Against the defendant/respondent:
  - 7.1. Name:
  - 7.2. Address:
    - 7.2.1. Street and No/PO box:
    - 7.2.2. Place and postcode:
    - 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:
    - 8.2.1. Street and No/PO box:
    - 8.2.2. Place and postcode:
    - 8.2.3. Country:
  - 8.3. Tel:
  - 8.4. Fax:
  - 8.5. E-mail:

9. Presence and participation of the parties:
- 9.1. Parties and, if any, their representatives will be present at the taking of evidence: ☐
- 9.2. Participation of the parties and, if any, their representatives is requested: ☐
10. Presence and participation of the representatives of the requesting court:
- 10.1. Representatives will be present at the taking of evidence: ☐
- 10.2. Participation of the representatives is requested: ☐
- 10.2.1. Name:
- 10.2.2. Title:
- 10.2.3. Function:
- 10.2.4. Task:
11. Nature and subject matter of the case and a brief statement of the facts (in annex, where appropriate):
12. Taking of evidence to be performed
- 12.1. Description of the taking of evidence to be performed (in annex, where appropriate):
- 12.2. Examination of witnesses:
- 12.2.1. Name and surname:
- 12.2.2. Address:
- 12.2.3. Tel.
- 12.2.4. Fax
- 12.2.5. E-mail:
- 12.2.6. Questions to be put to the witness or a statement of the facts about which they are to be examined (in annex, where appropriate):
- 12.2.7. Right to refuse to testify under the law of the Member State of the requesting court (in annex, where appropriate):
- 12.2.8. Please examine the witness:
- 12.2.8.1. under oath: ☐
- 12.2.8.2. on affirmation: ☐
- 12.2.9. Any other information that the requesting court deems necessary (in annex, where appropriate):
- 12.3. Other taking of evidence:
- 12.3.1. Documents to be inspected and a description of the requested taking of evidence (in annex, where appropriate):
- 12.3.2. Objects to be inspected and a description of the requested taking of evidence (in annex, where appropriate):

13. Please execute the request

13.1. In accordance with a special procedure (Article 10(3)) provided for by the law of the Member State of the requesting court and/or by the use of communications technology (Article 10(4)) described in annex:

13.2. Following information is necessary for the application thereof:

Done at:

Date:

Notification of forwarding the request

Article 7(2) 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 or commercial matters (OJ L 174, 27.6.2001, p. 1).

14. The request does not fall within the jurisdiction of the court indicated in point 4 above and was forwarded to

14.1. Name of the competent court:

14.2. Address:

14.2.1. Street and No/PO box:

14.2.2. Place and postcode:

14.2.3. Country:

14.3. Tel.

14.4. Fax

14.5. E-mail:

Done at:

Date:

**FORM B**

## Acknowledgement of receipt of a request for the taking of evidence

(Article 7(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 or commercial matters (OJ L 174, 27.6.2001, p. 1))

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:
    - 4.2.1. Street and No/PO box:
    - 4.2.2. Place and postcode:
    - 4.2.3. Country:
  - 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.
6. The request cannot be dealt with because:
  - 6.1. The language used to complete the form is not acceptable (Article 5): ☐
    - 6.1.1. Please use one the following languages:
  - 6.2. The document is not legible (Article 6): ☐

Done at:

Date:

**FORM C**

## Request for additional information for the taking of evidence

(Article 8 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 or commercial matters (OJ L 174, 27.6.2001, p. 1))

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:

Done at:

Date:

**FORM D**

## Acknowledgement of receipt of the deposit or advance

(Article 8(2) 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 or commercial matters (OJ L 174, 27.6.2001, p. 1))

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:

**FORM E**

Notification concerning the request for special procedures and/or for the use of communications technologies

(Article 10(3) and (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 or commercial matters (OJ L 174, 27.6.2001, p. 1))

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 13.1 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 13.1 of the request (Form A) could not be complied with because:
  - 6.1. The use of communications technology is incompatible with the law of 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:



**FORM F**

Notification of the date, time, place of performance of the taking of evidence and the conditions for participation

(Articles 11(4) and 12(5) 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 or commercial matters (OJ L 174, 27.6.2001, p. 1))

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 No/PO box:
    - 3.2.2. Place and postcode:
    - 3.2.3. Country:
  - 3.3. Tel.
  - 3.4. Fax
  - 3.5. E-mail:
4. Requested court
  - 4.1. Name:
  - 4.2. Address:
    - 4.2.1. Street and No/PO box:
    - 4.2.2. Place and postcode:
    - 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:

**FORM G**

## Notification of delay

(Article 15 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 or commercial matters (OJ L 174, 27.6.2001, p. 1))

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 can not be executed within 90 days of receipt for the following reasons:
6. It is estimated that the request will be executed by ... (indicate an estimated date)

Done at:

Date:

**FORM H**

## Information on the outcome of the request

(Articles 14 and 16 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 or commercial matters (OJ L 174, 27.6.2001, p. 1))

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: ☐

Done at:

Date:

**FORM I**

## Request for direct taking of evidence

(Article 17 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 or commercial matters (OJ L 174, 27.6.2001, p. 1))

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 No/PO box:
    - 3.2.2. Place and postcode:
    - 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:
    - 4.2.1. Street and No/PO box:
    - 4.2.2. Place and postcode:
    - 4.2.3. Country:
  - 4.3. Tel.
  - 4.4. Fax
  - 4.5. E-mail:
5. In the case brought by the claimant/petitioner:
  - 5.1. Name:
  - 5.2. Address:
    - 5.2.1. Street and No/PO box:
    - 5.2.2. Place and postcode:
    - 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:
    - 6.2.1. Street and No/PO box:
    - 6.2.2. Place and postcode:
    - 6.2.3. Country:
  - 6.3. Tel.
  - 6.4. Fax
  - 6.5. E-mail:
- 7. Against the defendant/respondent:
  - 7.1. Name:
  - 7.2. Address:
    - 7.2.1. Street and No/PO box:
    - 7.2.2. Place and postcode:
    - 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:
    - 8.2.1. Street and No/PO box:
    - 8.2.2. Place and postcode:
    - 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:
    - 11.2.2. Address:
    - 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):
  - 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 (in annex, where appropriate):

Done at:

Date:

**FORM J**

## Information from the central body/competent authority

(Article 17 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 or commercial matters (OJ L 174, 27.6.2001, p. 1))

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 No/PO box:
    - 4.2.2. Place and postcode:
    - 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): ☐
  - 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: ☐

Done at:

Date:

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# Annex C

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## *Designated courts in England and Wales under the Taking of Evidence Regulation*

<i>Area</i>	<i>(see paragraph 8 above)</i> <i>Designated court</i>
London and South Eastern Circuit	Royal Courts of Justice (Queen's Bench Division)
Midland Circuit	Birmingham Civil Justice Centre
Western Circuit	Bristol County Court
Wales Circuit	Cardiff Civil Justice Centre
Northern Circuit	Manchester County Court
North Eastern Circuit	Leeds County Court

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