Cooperation between the courts: taking of evidence in civil or commercial matters

2018/0203(COD) - 19/12/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Emil RADEV (EPP, BG) on the 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 committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

Definition of the term 'court'

For the purposes of this Regulation, the term 'court' shall be given a broad meaning so as to cover not only courts in the strict sense of the word, that exercise judicial functions, but also other bodies or authorities which are competent under national law to take evidence in accordance with this Regulation, such as enforcement authorities or notaries in certain Member States and in specific situations.

Taking evidence

The procedures for taking, preserving and presenting evidence shall ensure that the procedural rights of the parties, as well as the protection, integrity and confidentiality of personal data and privacy, are protected in accordance with Union law.

Any electronic system for the taking of evidence shall ensure that professional secrecy and legal professional privilege are protected. The taking of evidence shall be performed under the supervision of the requesting court, in accordance with its national law.

Hearings

The court shall notify the person to be heard, the parties, including their respective legal representatives, of the date, time and place of, and the conditions for participation in, the hearing via videoconference or via any other appropriate distance communication technology. The parties and their legal representatives shall be provided, by the relevant court, with instructions as to the procedure for presenting documents or other material during the hearing via videoconference or via any other appropriate distance communication technology.

Distance communication

Members stressed that where required by the national law of the requesting Member State, the use of videoconference or any other appropriate distance communication technology shall be subject to the consent of the person to be heard.

Data protection

Any processing of personal data carried out pursuant to this Regulation, including the exchange or transmission of personal data by the competent authorities, shall be in conformity with Union data protection law. Personal data which are not relevant for the handling of a specific case shall be immediately deleted.

Evaluation

Members proposed that by one year after the date of entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation. No later than four 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, accompanied, where appropriate, by a legislative proposal.