Judicial cooperation: taking of evidence in civil and commercial matters. Initiative Germany

2000/0823(CNS) - 28/05/2001 - Final act

PURPOSE : to improve the cooperation between courts of the Member States in the taking of evidence in civil and commercial matters. COMMUNITY MEASURE : Council Regulation 1206/2001/EC on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. CONTENT : this Regulation aims to improve cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. In particular, it will play an important role in improving and facilitating cross border litigation practices. The Regulation will apply in civil or commerical matters when a court of a Member State, in accordance with the provisions of the law of that State, requests the competent court of another Member State to take evidence or requests to take directly in another Member State. The Regulation contains provisions laying out the detailed procedure for the transmission and execution of requests which cover such questions as form and content of the request, language, transmission of requests and other communications, general provisions on the execution of the request (within 90 days), coercive measures, refusal to execute, notification of delay, direct taking of evidence by the requesting court and costs. In particular, the Regulation provides for a new mechanism that enables a requesting Member State to directly perform the taking of evidence in accordance with the law of that Member State. However, the requested Member State shall inform if that is acceptable and where necessary under what conditions the taking of evidence is to be carried out. The competent authority may refuse the direct taking of evidence if it is contrary to fundamental principles of law in its Member State. The United Kingdom and Ireland have given notice that they were taking part in the adoption of and application of this Regulation in accordance with the relevant Protocol annexed to the TEU. Denmark, in accordance with the relevant Protocol on its position concerning the JHA matters annexed to the TEU and the TEC, did not participate in the adoption of this Regulation and is therefore not bound by it, nor subject to its adoption. ENTRY INTO FORCE : the Regulation shall enter into force on 1 July 2001. It shall apply from 1 January 2004, except for Articles 19, 21 and 22 which shall apply from 1 July 2001.