



Basic information	
2000/0823(CNS) CNS - Consultation procedure Regulation	Procedure completed
Judicial cooperation: taking of evidence in civil and commercial matters. Initiative Germany Amended by 2018/0203(COD) Subject 7.40.02 Judicial cooperation in civil and commercial matters	

Key players				
European Parliament	Committee responsible		Rapporteur	Appointed
	JURI	Legal Affairs and Internal Market	MARINHO Luís (PSE)	22/11/2000
	Committee for opinion		Rapporteur for opinion	Appointed
	LIBE	Citizens' Freedoms and Rights, Justice and Home Affairs	The committee decided not to give an opinion.	16/01/2001
Council of the European Union	Council configuration		Meetings	Date
	Justice and Home Affairs (JHA)		2350	2001-05-28

Key events			
Date	Event	Reference	Summary
06/10/2000	Legislative proposal published	11808/2000	Summary
27/10/2000	Committee referral announced in Parliament		
27/02/2001	Vote in committee		Summary
27/02/2001	Committee report tabled for plenary, 1st reading/single reading	A5-0073/2001	
13/03/2001	Debate in Parliament		
14/03/2001	Decision by Parliament	T5-0138/2001	Summary
28/05/2001	Act adopted by Council after consultation of Parliament		
28/05/2001	End of procedure in Parliament		
27/06/2001	Final act published in Official Journal		

Technical information	
Procedure reference	2000/0823(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amended by 2018/0203(COD)
Legal basis	EC Treaty (after Amsterdam) EC 067-p1 EC Treaty (after Amsterdam) EC 061-
Stage reached in procedure	Procedure completed
Committee dossier	JURI/5/13882

Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0073/2001	27/02/2001	
Text adopted by Parliament, 1st reading/single reading		T5-0138/2001 OJ C 343 05.12.2001, p. 0106-0184	14/03/2001	Summary
Council of the EU				
Document type	Reference	Date	Summary	
Legislative proposal	11808/2000 OJ C 314 03.11.2000, p. 0001	06/10/2000	Summary	
European Commission				
Document type	Reference	Date	Summary	
Follow-up document	COM(2007)0769 	05/12/2007	Summary	
Other institutions and bodies				
Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0228/2001 OJ C 139 11.05.2001, p. 0010	28/02/2001	

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2001/1206
OJ L 174 27.06.2001, p. 0001

[Summary](#)

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

2000/0823(CNS) - 06/10/2000 - Legislative proposal

PURPOSE: to present an initiative of the Federal Republic of Germany with a view to the adoption of a Council Regulation on cooperation between the courts of the Member States in the taking of evidence in civil and commercial matters. **CONTENT:** The main provisions of this proposed Regulation would relate to the following: - direct transmission between the courts; - transmitting and receiving agencies; - central authority; - form and content of requests; - transmission of requests and other communications; - notification of delays - execution of the request; - coercive measures; - refusal to execute; - presence of representatives of the requesting court and of the other parties; - procedure after execution of the request; - implementing rules; - relationship with existing or future agreements or arrangements between the Member States; - data protection. In conclusion, no later than 5 years after the date of entry into force of this proposed Regulation, and every five years thereafter, it is envisaged that the Commission would present to the European Parliament and the Council and the Economic and Social Committee, a report on the application of this Regulation.

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

2000/0823(CNS) - 05/12/2007 - Follow-up document

This report has been prepared by the Commission in accordance with Article 23 of Council Regulation (EC) 1206/2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. As a reminder, this Regulation applies to all of the EU Member States except Denmark.

Since the Regulation entered into force, the Commission has held a number of meetings with the European Judicial Network in Civil and Commercial Matters. In consultation with this network, the Commission has drawn up a Practice Guide for the application of the Regulation. Furthermore, the Commission requested a study on the application of the Regulation, which was conducted by a contractor.

The main objective of the study was to obtain an empirical analysis of the Regulation's application. It examined, in particular, the question of whether court cooperation in taking evidence has improved, whether it has simplified procedures and whether this cooperation has accelerated procedures.

The study is based on a survey which was carried out by a contractor between November 2006 and January 2007. It is based on answers to a questionnaire, which was answered by Member States' administrations, judges, attorneys and those involved in the Regulation's application

Based on the findings of this study, the Commission has drawn the following conclusions:

- by and large, the Regulation has improved, simplified and accelerated cooperation between the courts regarding taking of evidence in civil or commercial matters;
- the Regulation has achieved its two main objectives, namely, to simplify Member States cooperation and to accelerate the performance of taking evidence;
- where simplification has been achieved, this is largely thanks to the introduction of direct court-to-court transmission (although requests are still sometimes or even often sent to central bodies), and by the introduction of standard forms; and
- on the matter of accelerated procedures, most requests for the taking of evidence are executed faster than before the entry into force of the Regulation and within the 90 days as foreseen by the Regulation.

As a result of these findings, the Commission finds no reason to modify the Regulation. Its functionality could, however, be improved.

First of all, it follows from various findings that - despite the discussions held in the European Judicial Network in Civil Matters and the availability of the practice guide in all Member States – the level of awareness of the Regulation is not high among legal practitioners, which can lead to unnecessary delays and problems.

Therefore, the work accomplished in the context of the European Judicial Network in Civil and Commercial Matters should be better exploited in the Member States, and, in particular, it should be ensured that the practice guide is disseminated widely among legal practitioners.

It seems that the extent to which the taking of evidence has been simplified and accelerated varies significantly between Member States. This becomes particularly evident with respect to the time required for the taking of evidence since, in some Member States, the time frame of 90 days is

often not complied with. In addition, the effectiveness of central bodies and the availability of modern communications technology, in particular video-conferencing, varies significantly between Member States.

On a final point, the report concludes that the possibility of taking evidence directly, (an important innovation of the Regulation), is used only rarely.

Therefore, the Commission concludes that :

- a wider dissemination of the Regulation amongst the legal profession should be encouraged;
- measures should be taken by Member States to ensure that the 90-day time frame for the execution of requests is complied with;
- Member States should make more use of electronic communication methods (such as video telephony) in order to accelerate and speed up proceedings.

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 commercial 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.

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

2000/0823(CNS) - 14/03/2001 - Text adopted by Parliament, 1st reading/single reading

The European Parliament voted by 475 to 13 with 20 abstentions to approve the report by Luis MARINHO (PES, P) on an initiative by Germany for the adoption of a Council Regulation on co-operation between Courts of the Member States in the taking of evidence in civil and commercial cases. Parliament gives its full backing to the German initiative which seeks to lay down uniform rules on how the courts should proceed in cases where a court of a Member States requests the competent court of another Member State to obtain evidence or perform judicial acts. (Please refer to the previous text).