European Commission

EU Regulation 1206/2001 on taking of evidence

DG Justice and Consumers
Civil Justice A.1

Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

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Justice and Consumers

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EU Regulation (EC) 1206/2001

- Regulation (EC) 1206/2001 is applicable since 1 January 2004 between Member States (except Denmark)
- Art. 21 ToER: the Regulation replaces both the 1970 Haguce Convention on ToE and Articles 8-16 of the 1954 Hague Convention on civil procedure in matters to which it applies and in relations between the Member States
  - „to perform some other judicial act" (Art 1 1970 HC)
- Main novelties:
  - direct transmission between courts
  - Systematic use of standard forms in all phases of communications

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Regulation 1206/2001

Replaces
1970 Hague Convention on taking of evidence, as well as Chapter II of 1954 Hague Convention on civil procedure
between MS

Introduces

- **Direct court-to-court dealings**
- **Direct taking of evidence**
- **Uniform standard forms**
- **New language rules**

Scope (Art. 1)

A court/judicial authority of one State requests competent court/judicial authority of another State

to take evidence <> to obtain evidence, or to perform some other judicial act.
(or in EU Reg: to take evidence directly**)**

In civil or commercial matters

Evidence intended for use in judicial proceedings, commenced or contemplated

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Courts and Authorities under the EU Regulation

Requesting Court, Art. 2:
Court before which proceedings are commenced or contemplated

Requested Court, Art. 2:
Competent court of another Member State for the performance of taking of evidence

Central Body, Art. 3 (1):
Supplies information to courts, seeks solutions to difficulties

Competent Authority, Art. 3 (3) (or Central Body):
Takes decisions on requests to take evidence directly

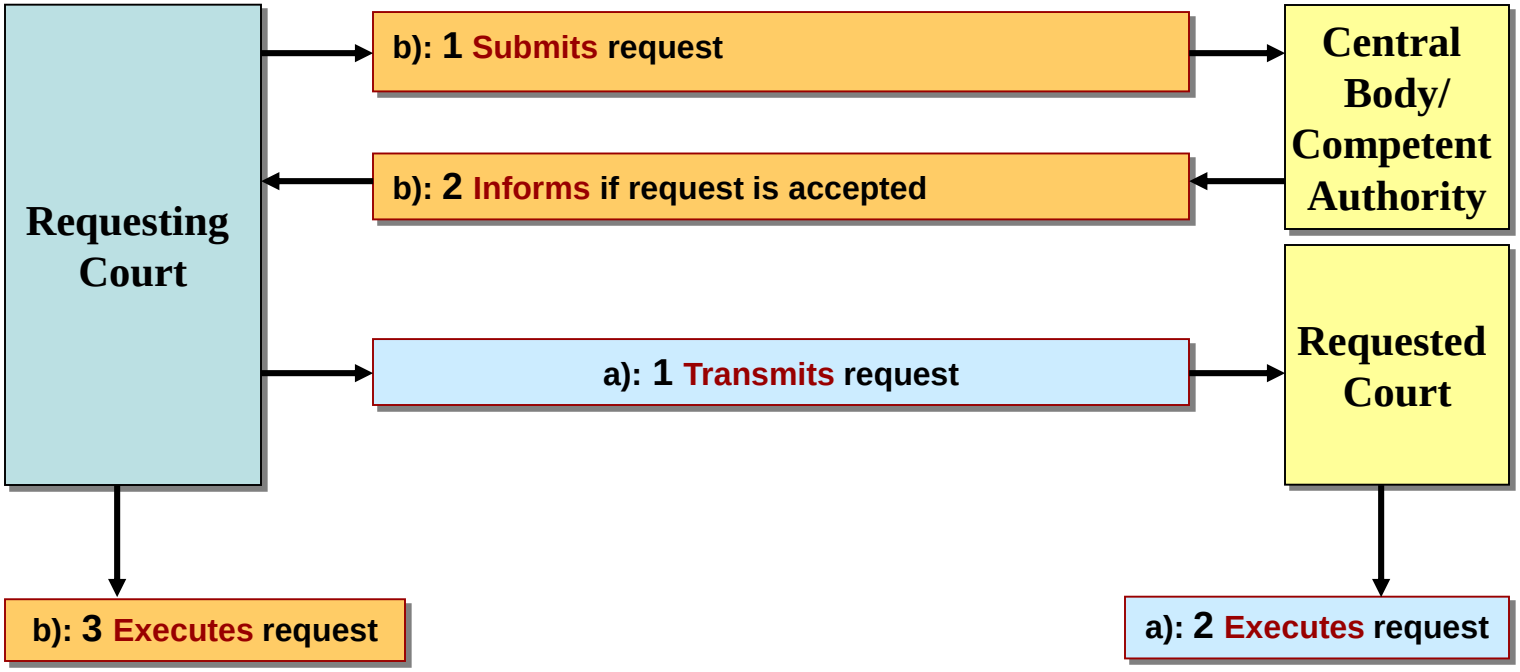
Methods of Taking Evidence I.

EU Regulation 1206/2001

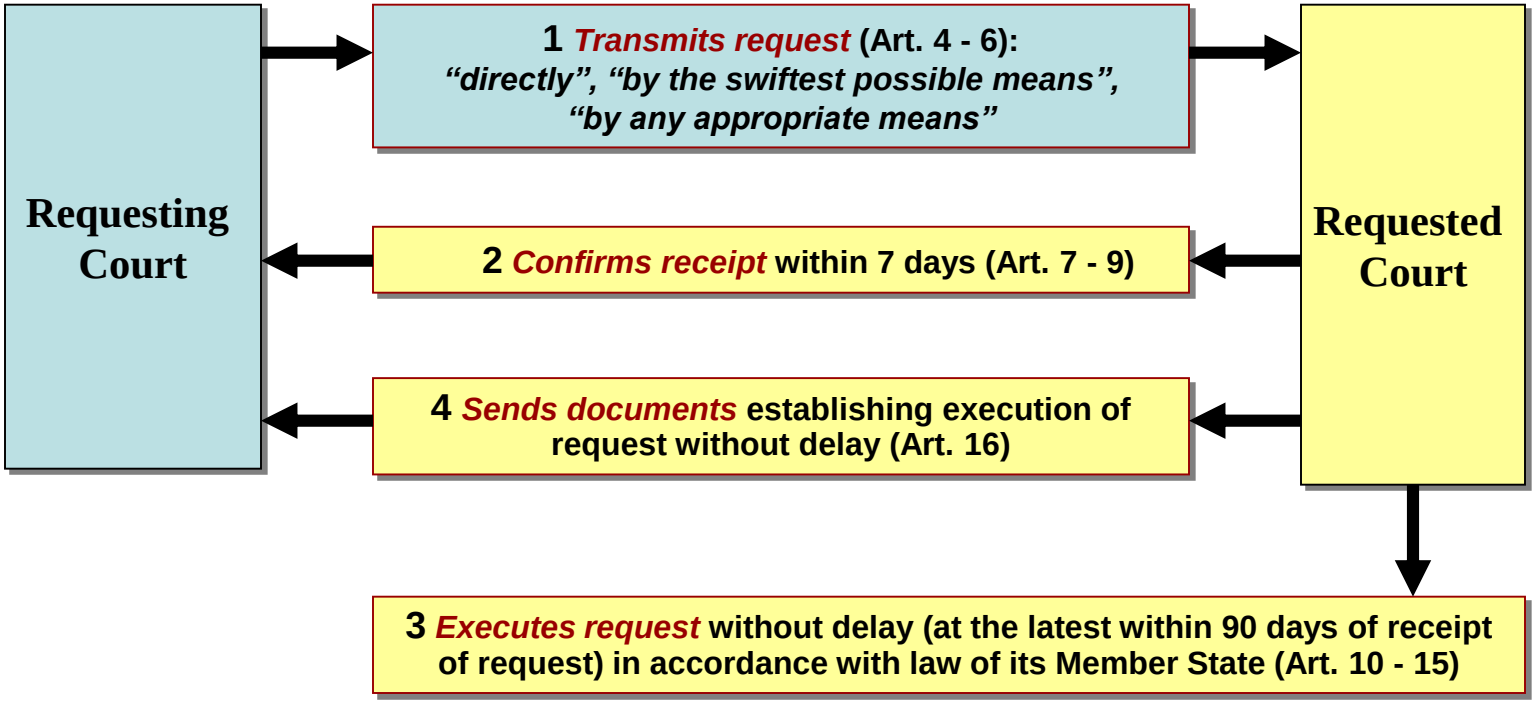
- *Request to competent Court, Art. 1 (1) a), 4 – 16*
- *Direct Taking of Evidence, Art. 1 (1) b), 17*

  Court of MS requests competent authority of other MS to take evidence directly in another MS

Methods of Taking Evidence II under the EU Regulation



Request to Competent Court



Direct Taking of Evidence (Art. 17)

Requesting Court

1 ***Submits request***

Central Body/ Competent Authority

2 ***Informs*** **if request is accepted (and, if necessary, under what conditions according to law of its MS performance is to be carried out). May refuse only if direct taking of evidence requested is contrary to** ***"fundamental principles of law"*** **in its MS**

May assign court **of its MS to take part in performance of taking of evidence**

3 ***Executes request:***

- **Only on voluntary basis without need for coercive measures**
- **In accordance with law of MS of Requesting Court**
- **By member of judicial personnel or by any other person such as a designated expert**

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ToE through requested court (EU)

- Within 7 days:
  - Acknowledgment of receipt (Form B)
  - Request is not legible, or not drafted in a permitted lanugage (Form B)
  - Request does not fall within the jurisdiction of the requested court (notification on forwarding by using Form A)
- Within 30 days (Form C)
  - Additional information needed for the execution of the request
  - Execution is depending on a deposit or advance
- Within 60 days (Form H)
  - Request does not fall within the scope of the Regulation
  - Request does not fall within the functions of the judiciary in the requested MS.
- Within 90 days
  - Other information about the outcome of the request (e.g. compliance)
  - Notification of delay (Form G)

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ToE through requested court (EU)

- Execution in accordance with a special procedure (Art. 10 (3))
  - May only be refused if
    - procedure is incompatible with the law of the requested MS
    - By reason of major practical difficulties
- the use of modern communication technologies (Art. 10(4))
- Participation of the parties or their representatives, and of the representatives of the requesting court (Artt. 11-12)
  - Presence of the parties an absolute right <> active participation requires admittance by the requested court . See points 9.1. and 9.2. of Form A
- Grounds for refusal (Art. 14)

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Standard Forms (Annex)

- A: Request for the taking of evidence
- B: Acknowledgement of receipt of request
- C: Request for additional information for taking of evidence
- D: Acknowledgement of receipt of deposit or advance
- E: Notification concerning request for special procedures and/or for use of communications technologies
- F: Notification of date, time, place of performance of taking of evidence and conditions for participation
- G: Notification of delay
- H: Information on outcome of request
- I: Request for direct taking of evidence
- J: Information from central body/competent authority

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Taking of evidence forms
On-line forms contained in the Council Regulation on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters

- **European Payment Order forms**
- **Small claims forms**
- **Legal aid forms**
- **Taking of evidence forms**

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https://e-justice.europa.eu/content_taking_of_evidence_forms-160-en.do

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Taking of evidence forms

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 seeks to improve, simplify and accelerate cooperation between courts in the taking of evidence.

The Regulation applies between all Member States of the European Union with the exception of Denmark. Between Denmark and the other Member States the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters of 1970 applies.

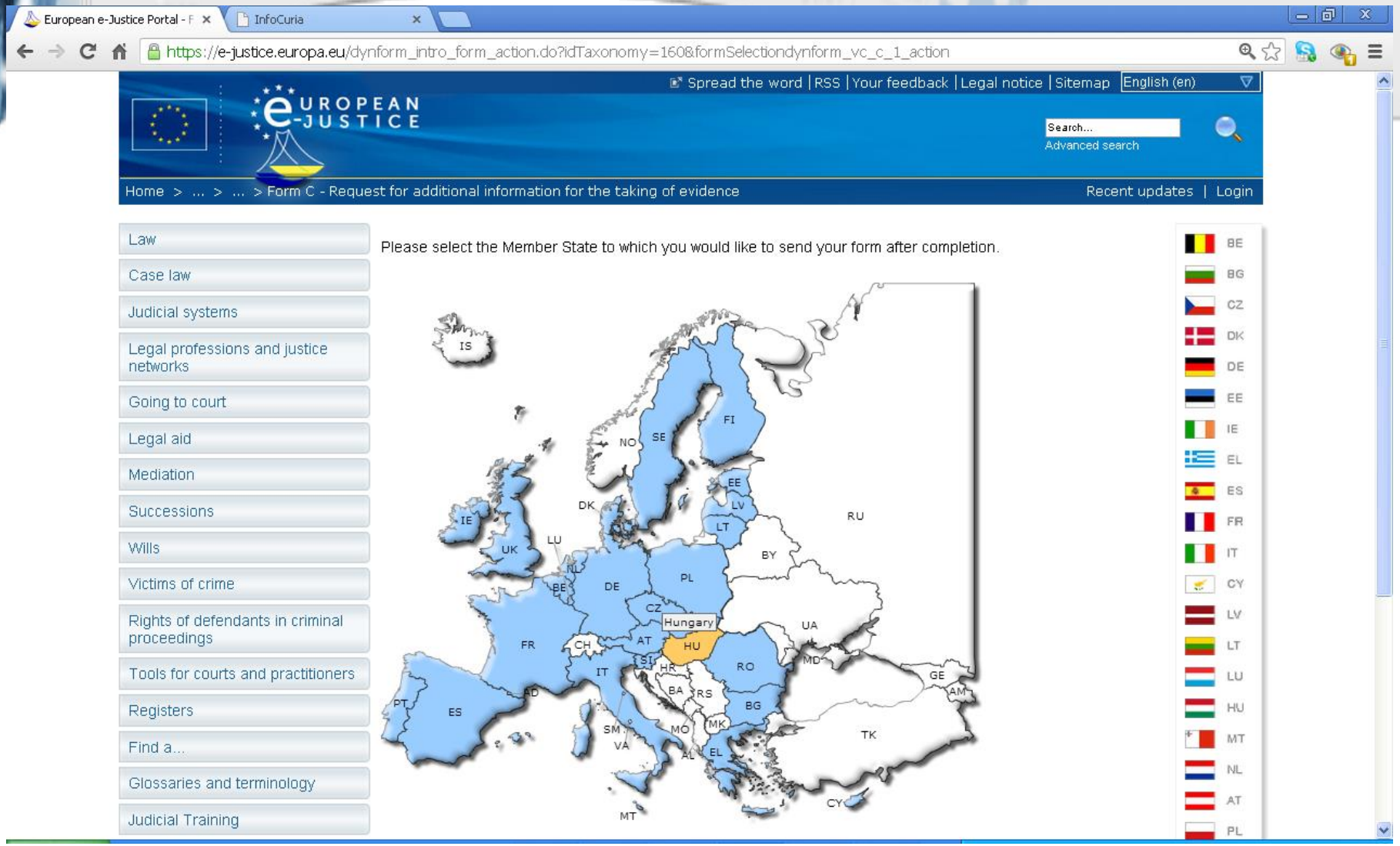
The Regulation provides for two ways of taking of evidence between Member States: direct transmission of requests between the courts and the direct taking of evidence by the requesting court.

The Requesting Court is the court before which the proceedings are commenced or contemplated. The Requested Court is the competent court of another Member State for the performance of the taking of evidence. The Central Body is responsible for supplying information and seeking solutions to any difficulties which may arise in respect of a request.

The Regulation provides for ten forms.

You can complete these forms online by clicking one of the links below. If you have already started a form and saved a draft, you can upload it using the "Load draft" button.

For additional information, please go to our page on Taking of evidence.

Complete a form online	Download an empty form	Email a blank form
Form A - Request for the taking of evidence		
Form B - Acknowledgement of receipt of a request for the taking of evidence		
Form C - Request for additional information for the taking of evidence		
Form D - Acknowledgement of receipt of the deposit or advance		

Dynamic Forms IV.