

Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (taking of evidence) (recast)

CHAPTER III

FINAL PROVISIONS

Article 23

Manual and amendment of Annex I

1 The Commission shall draw up and regularly update a manual containing the information provided by the Member States in accordance with Article 31 and the agreements or arrangements in force, in accordance with Article 29(3). It shall make the manual available electronically, in particular through the European Judicial Network in Civil and Commercial Matters and on the European e-Justice Portal.

2 The Commission is empowered to adopt delegated acts in accordance with Article 24 to amend Annex I in order to update the forms set out therein or to make technical changes to those forms.

Article 24

Exercise of delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 23(2) shall be conferred on the Commission for a period of 5 years from 22 December 2020. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before the end of the 5-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each period.

3 The delegation of power referred to in Article 23(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 23(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period

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of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

Article 25

Adoption of implementing acts by the Commission

1 The Commission shall adopt implementing acts establishing the decentralised IT system, setting out the following:

- a the technical specification defining the methods of communication by electronic means for the purposes of the decentralised IT system;
- b the technical specifications for communication protocols;
- c the information security objectives and relevant technical measures ensuring minimum information security standards for the processing and communication of information within the decentralised IT system;
- d the minimum availability objectives and possible related technical requirements for the services provided by the decentralised IT system;
- e the establishment of a steering committee comprising representatives of the Member States to ensure the operation and maintenance of the decentralised IT system in order to meet the objectives of this Regulation.

2 The implementing acts referred to in paragraph 1 of this Article shall be adopted by 23 March 2022 in accordance with the examination procedure referred to in Article 26(2).

Article 26

Committee procedure

1 The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 27

Reference implementation software

1 The Commission shall be responsible for the creation, maintenance and future development of reference implementation software which Member States may choose to apply as their back-end system instead of a national IT system. The creation, maintenance and future development of the reference implementation software shall be financed from the general budget of the Union.

2 The Commission shall provide, maintain and support on a free-of-charge basis implementation of the software components underlying the access points.

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Article 28

Costs of the decentralised IT system

1 Each Member State shall bear the costs of the installation, operation and maintenance of its access points interconnecting the national IT systems in the context of the decentralised IT system.

2 Each Member State shall bear the costs of establishing and adjusting its national IT systems to make them interoperable with the access points, and shall bear the costs of administering, operating and maintaining those systems.

3 Paragraphs 1 and 2 shall be without prejudice to the possibility of Member States to apply for grants to support the activities referred to in those paragraphs under the Union's financial programmes.

Article 29

Relationship with agreements or arrangements between Member States

1 This Regulation shall prevail in relation to matters to which it applies 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 to further facilitate the taking of evidence, provided that those agreements or arrangements are compatible with this Regulation.

3 Member States shall send to the Commission:

- a a copy of any agreements or arrangements referred to in paragraph 2 concluded between the Member States, as well as drafts of any such agreements or arrangements which they intend to adopt; and
- b any denunciation of, or amendments to, those agreements or arrangements.

Article 30

Protection of information transmitted

1 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 Regulation (EU) 2016/679.

Any exchange or transmission of information by competent authorities at Union level shall be undertaken in accordance with Regulation (EU) 2018/1725.

Personal data which are not relevant for the handling of a specific case shall be deleted immediately.

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2 The competent authority or authorities under national law shall be regarded as controllers within the meaning of Regulation (EU) 2016/679 with respect to personal data processing under this Regulation.

3 Notwithstanding paragraphs 1 and 2, information transmitted under this Regulation shall be used by the requested court only for the purpose for which it was transmitted.

4 Requested courts shall ensure that such information remains confidential, in accordance with their national law.

5 Paragraphs 3 and 4 shall be without prejudice to national laws enabling data subjects to be informed of the use made of information transmitted under this Regulation.

6 This Regulation shall be without prejudice to Directive 2002/58/EC.

Article 31

Communication

1 Member States shall communicate to the Commission the following:

- a the list drawn up pursuant to Article 3(2) indicating the territorial and, where applicable, the special jurisdiction of the courts;
- b the names and addresses of the central bodies and competent authorities designated pursuant to Article 4(3), indicating their territorial jurisdiction;
- c the technical means for the receipt of requests available to the courts on the list drawn up pursuant to Article 3(2);
- d the languages accepted for requests, as referred to in Article 6.

2 Member States shall inform the Commission of any subsequent changes to the information referred to in paragraph 1.

3 Each Member State shall communicate to the Commission details of the other authorities that are competent to take evidence for the purposes of judicial proceedings in civil or commercial matters. Member States shall inform the Commission of any subsequent changes to those details.

4 Member States may notify the Commission if they are in a position to operate the decentralised IT system earlier than required by this Regulation. The Commission shall make such information available electronically, in particular through the European e-Justice Portal.

Article 32

Monitoring

1 By 2 July 2023, the Commission shall establish a detailed programme for monitoring the outputs, results and impact of this Regulation.

2 The monitoring programme shall specify the action to be taken by the Commission and by the Member States to monitor the outputs, results and impact of this Regulation. It shall set out when the data referred to in paragraph 3 are to be collected for the first time, which shall be at the latest 2 July 2026, and at what further intervals those data are to be collected.

3 Member States shall provide the Commission with the following data necessary for the purposes of monitoring, where available:

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- a the number of requests for the taking of evidence transmitted in accordance with Article 7(1) and Article 19(1) respectively;
- b the number of requests for the taking of evidence executed in accordance with Article 12 and Article 19(8) respectively;
- c the number of cases in which the request for the taking of evidence was transmitted by means other than through the decentralised IT system in accordance with Article 7(4).

4 The reference implementation software and, where equipped to do so, the national back-end system shall programmatically collect the data referred to in points (a) and (b) of paragraph 3 and transmit them to the Commission on a regular basis.

Article 33

Evaluation

1 No later than 5 years after the date of application of Article 7 in accordance with Article 35(3), the Commission shall carry out an evaluation of this Regulation and present a report on its main findings to the European Parliament, the Council and the European Economic and Social Committee, accompanied, where appropriate, by a legislative proposal.

2 Member States shall provide the Commission with the information necessary for the preparation of the report referred to in paragraph 1.

Article 34

Repeal

1 Regulation (EC) No 1206/2001 shall be repealed as from the date of application of this Regulation, with the exception of Article 6 of Regulation (EC) No 1206/2001 which shall be repealed as from the date of application of Article 7 referred to in Article 35(3) of this Regulation.

2 References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

Article 35

Entry into force and application

1 This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2022.

2 Article 31(3) shall apply from 23 March 2022.

3 Article 7 shall apply from the first day of the month following the period of 3 years after the date of entry into force of the implementing acts referred to in Article 25.

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