



Press and Information

Court of Justice of the European Union  
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Judgment in Case C-283/09  
Artur Weryński v Mediatel 4B spółka z o.o.

## **A national court is not obliged to pay the expenses of a witness examined at its request by a court of another Member State**

*In such circumstances the taking of evidence in another Member State must not lead to the lengthening of national proceedings*

Regulation (EC) No 1206/2001<sup>1</sup> provides that if a court of a Member State (requesting court) asks the competent court of another Member State (requested court) to take evidence – for example, by examining a witness – the latter court is to execute the request in accordance with its national law.

Under Irish law a witness is obliged to appear before a court only if he has first received payment for his travel expenses ('a viaticum').

In 2009, Mr Weryński brought an action before the Sąd Rejonowy dla Warszawy Śródmieścia (District Court for Warsaw City Centre, Poland) against Mediatel 4B spółka z o.o., his former employer, for damages arising from a non-compete agreement. In those proceedings, the Polish court requested the Dublin Metropolitan District Court (Ireland) to examine a witness. However, the requested court made the examination of the witness conditional on payment, by the requesting court, of witness expenses of EUR 40 under Irish law.

The Polish court asked the Court of Justice whether it was obliged to pay the costs incurred by the witness examined by the requested court, be it in the form of an advance or a reimbursement of expenses.

As far as concerns the payment to the requested court of an advance for witness expenses, the Court states that the possibility of refusing to execute a request for the taking of evidence should be confined to strictly limited exceptional situations. It follows that the grounds on which execution of such a request may be refused are those exhaustively listed in the regulation. The latter does not provide, however, that an advance for examining a witness may be required. The requested court was not therefore entitled to make the examination of a witness conditional on prior payment of an advance covering his witness expenses. **Therefore, the requesting court was not obliged to pay such an advance.**

As regards the reimbursement by the requesting court of witness expenses, the regulation provides that the execution of a request to take evidence is not to give rise to a claim for any reimbursement of taxes or costs.

In that connection, the Court states that 'taxes' should be understood as meaning sums received by the court for carrying out its functions, whereas 'costs' are to be understood as the sums paid by the court to third parties in the course of proceedings, in particular to experts or witnesses. It follows that expenses paid to a witness examined by the requested court are costs within the meaning of Regulation No 1206/2001.

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<sup>1</sup> 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 (OJ 2001 L 174, p. 1).

The Court recalls that the aim of that regulation is to make the taking of evidence in a cross-border context simple, effective and rapid. Consequently, the taking, by a court of one Member State, of evidence in another Member State must not lead to the lengthening of national proceedings.

**Therefore, the requesting court can be obliged to provide reimbursement only if one of the exceptions laid down in the regulation is applicable. However, witness expenses are not mentioned in that context.**

Therefore, the Court concludes that a requesting court is not obliged to pay an advance to the requested court for the expenses of a witness or to reimburse the expenses paid to the witness examined.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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