

Commission's Report on the Application of the Council Regulation (EC) 1206/2001 (Taking of Evidence)

From the European Judicial Network website:

*On 5 December 2007, the Commission adopted its **report on the application of the Council Regulation (EC) 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.***

The report has been prepared in accordance with Article 23 of the Regulation. It concludes that the application of the Regulation has generally improved, simplified and accelerated the cooperation between the courts on the taking of evidence in civil or commercial matters. The Regulation has achieved its two main objectives, namely firstly to simplify the cooperation between Member States and secondly to accelerate the performance of the taking of evidence, to a relatively satisfactory extent. Simplification has been brought about mainly by 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. As far as acceleration is concerned, it can be concluded that most requests for the taking of evidence are executed faster than before the entry into force of the Regulation and within 90 days as foreseen by the Regulation. Consequently, modifications of the Regulation are not required, but its functioning should be improved. In particular in the current period of adaptation which is still ongoing, there are certain aspects concerning the application of the Regulation which should be improved.

The Commission

- *encourages all further efforts - in particular beyond the dissemination of the practice guide - to enhance the level of familiarity with the Regulation among legal practitioners in the European Union.*
- *is of the view that measures should be taken by Member States to*

ensure that the 90 day time frame for the execution of requests is complied with.

- *is of the view that the modern communications technology, in particular videoconferencing which is an important means to simplify and accelerate the taking of evidence, is by far not used yet to its possible extent, and encourages Member States to take measures to introduce the necessary means in their courts and tribunals to perform videoconferences in the context of the taking of evidence.*

The Commission's report is **based on a study prepared by an external contractor**, available on the DG Freedom, Security and Justice website: the contractor carried out a survey, using the feedback provided by administrations of Member States, judges, attorneys and other persons involved in the application of the Regulation (see the annexes to the study).