



**STUDY ON THE APPLICATION OF
COUNCIL REGULATION (EC)
N° 1206/2001, ON COOPERATION
BETWEEN THE COURTS OF THE MEMBER
STATES IN THE TAKING OF EVIDENCE IN
CIVIL OR COMMERCIAL MATTER.**

ANNEX III – Questionnaires

Customer: European Commission
Directorate General Justice and Home Affairs
Directorate C: Civil Justice, Rights and Citizenship

Date: March 2007

Our Reference: FINAL_REPORT_1206_AnnexIII_09032007

We hereby present the main questionnaires used for this Study. The final, html designed, questionnaires are available at www.mainstrat.com/1206 (Questionnaire 1) and <http://www.mainstrat.com/1206-Courts> (Questionnaire 3). Questionnaires were provided in **six languages** (English, German, French, Spanish, Italian, and Greek). Questionnaire 2 was only addressed to the 24 Central Authorities. Questionnaire 3 is the addition of one question to Questionnaire 1, the question on Time, found at Questionnaire 2: last question.

QUESTIONNAIRE 1

STUDY ON THE APPLICATION OF TAKING OF EVIDENCE. COUNCIL DIRECTIVE 1206/2001

Name: Profile:*

Country:*

GENERAL QUESTIONS

Impact

1. From your experience, has the application of Regulation 1206/2001 simplified and accelerated cooperation between courts as regards the taking of evidence?

Yes, significantly
 Yes
 Varies between Member States, but generally speaking yes
 No
 Difficult to say

Comments:

Speed

2. From your experience, the average time required for the execution of requests is:

Less than 6 weeks
 6 to 12 weeks
 More than 12 weeks

3. Is this faster than before the the Regulation entered into force?

Yes, significantly
 Yes
 Varies between Member States, but generally speaking yes
 No
 Difficult to say

Central Bodies

4. How effective are the central bodies in supplying information to courts and seeking solutions to any difficulties which may arise in respect of a request?

Very effective
 Effective
 Varies between Member States, but generally speaking rather effective
 Varies between Member States, but generally speaking rather ineffective
 Ineffective
 Difficult to say

Scope

5. Have there been problems of interpretation of the Regulation, in particular concerning its scope and the concept of "evidence"? Has this led to a refusal to execute requests (Article 14)?

Yes
 No

Comments:

Forms

6. Has the practical application of forms caused any problems? If so, which forms? Why?

Yes
 No

Comments:

ANNEX III – Questionnaires

Communications Technology		
<p>The Regulation encourages the use of communications technology. The requesting court may ask the requested court to use communications technology at the performance of the taking of evidence, in particular by using videoconference and teleconference (Article 10 (4)). Also in the context of direct taking of evidence, the central body or the competent authority shall encourage the use of communications technology (Article 17 (4)).</p>		
<p>7. How frequently is communications technology used for taking evidence? In which types of requests?</p>	<input type="radio"/> Rarely <input type="radio"/> Sometimes <input type="radio"/> Often	<p>Comments:</p> <input style="width: 100%;" type="text"/>
<p>8. In practice has the use of communications technology simplified and accelerated the taking of evidence in other Member States?</p>	<input type="radio"/> Yes, considerably <input type="radio"/> Yes <input type="radio"/> Varies between Member States, but generally speaking yes. <input type="radio"/> No <input type="radio"/> Difficult to say	
<p>9. Has the use of communications technology caused any problems? If so, which?</p>	<input type="radio"/> Yes <input type="radio"/> No	<p>Comments:</p> <input style="width: 100%;" type="text"/>

Costs		
<p>10. Has the practical application of Article 18 (costs) caused any problems? If so, which?</p>	<input type="radio"/> Yes <input type="radio"/> No	<p>Comments:</p> <input style="width: 100%;" type="text"/>

★ QUESTIONS ON THE TAKING OF EVIDENCE THROUGH THE REQUESTED COURTS

Requesting and Requested Courts		
<p>11. How effective are the requesting and requested courts (Article 2) in fulfilling their tasks under the Regulation?</p>	<input type="radio"/> Very effective <input type="radio"/> Effective <input type="radio"/> Varies between Member States, but generally speaking rather effective <input type="radio"/> Varies between Member States, but generally speaking rather ineffective <input type="radio"/> Ineffective <input type="radio"/> Difficult to say	
<p>12. Has the introduction of direct court-to-court contacts caused specific problems? If so, which?</p>	<input type="radio"/> Yes <input type="radio"/> No	<p>Comments:</p> <input style="width: 100%;" type="text"/>

★ QUESTIONS ON THE DIRECT TAKING OF EVIDENCE

Direct Taking of Evidence		
<p>In contrast to international instruments on the taking of evidence like the 1970 Hague Convention, the Regulation (Article 17) goes beyond the classical concept of judicial cooperation by providing for the possibility of a court to take evidence directly in another Member State.</p>		
<p>13. How frequently is this method of taking evidence used? For which types of requests?</p>	<input type="radio"/> Rarely <input type="radio"/> Sometimes <input type="radio"/> Often	<p>Comments:</p> <input style="width: 100%;" type="text"/>
<p>14. In practice, has the introduction of this method of taking evidence simplified and accelerated the taking of evidence in other Member States?</p>	<input type="radio"/> Yes, considerably <input type="radio"/> Yes <input type="radio"/> Varies between Member States, but generally speaking yes. <input type="radio"/> No <input type="radio"/> Difficult to say	
<p>15. Has the application of Article 17 caused any problems? If so, which?</p>	<input type="radio"/> Yes <input type="radio"/> No	<p>Comments:</p> <input style="width: 100%;" type="text"/>

ANNEX III – Questionnaires

★ OTHER COMMENTS	
16. Do you find it problematic that the Regulation often refers to the national laws of Member States?	<input type="radio"/> Not much <input type="radio"/> Fairly <input type="radio"/> A lot
17. Do you consider the harmonisation of the procedural laws of the Member States on the issue of the taking of evidence desirable?	<input type="radio"/> Yes <input type="radio"/> No
18. Have you found problems of compatibility between the Regulation and other instruments such as the 1970 Hague Convention on the Taking of Evidence?	<input type="radio"/> Yes <input type="radio"/> No Comments: <input type="text"/>
19. Please feel free to give further explanations or make proposals <input type="text"/>	

STUDY ON THE APPLICATION OF TAKING OF EVIDENCE, COUNCIL DIRECTIVE 1206/2001 Send >>

QUESTIONNAIRE 2

**STUDY ON THE APPLICATION OF TAKING OF EVIDENCE. COUNCIL DIRECTIVE
1206/2001**

Name: Profile:* Country:*

TRANSMISSION OF REQUESTS

a) Are the requests and communications addressed to your Member State pursuant to this Regulation transmitted by the "swiftest possible means" (Article 6 of the Regulation) which your Member State accepts? Yes Yes, mostly Mostly not No Please feel free to give further explanations or make proposals:

b) From your experience, how frequently have central bodies forwarded a request to the competent court at the request of a requesting court? Very often Often Sometimes Never Please feel free to give further explanations:

c) How often have central bodies had to seek solutions to difficulties which have arisen in respect of a request? Very often Often A few times Never Please feel free to give further explanations:

NUMBER OF REQUESTS

Article 1(1) of the Regulation provides that "this Regulation shall apply in civil or commercial matters where the court of a Member State, in accordance with the provisions of the law of that State, requests: (a) the competent court of another Member State to take evidence; or (b) to take evidence directly in another Member State".

1. Do you have information concerning the number of requests from courts in other Member States transmitted in 2005 to the competent courts of your Member State in accordance with Article 1(1)(a) of the Regulation?

MEMBER STATE	APPROX. NUMBER			EXACT NUMBER (if known)
	Less than 10	Between 10 and 20	Over 20	
Austria	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Belgium	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Cyprus	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Czech Republic	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Estonia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Finland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
France	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Germany	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Greece	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Hungary	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Ireland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Italy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Latvia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Lithuania	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Luxembourg	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Malta	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Poland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>

ANNEX III – Questionnaires

Portugal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Slovakia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Slovenia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Spain	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Sweden	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
The Netherlands	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
United Kingdom	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>

Please feel free to give further explanations:

2. Do you have information concerning the number of requests from courts in other Member States in 2005 to take evidence directly in your country in accordance with Article 1(1)(b) of the Regulation?

MEMBER STATE	APPROX. NUMBER			EXACT NUMBER (if known)
	Less than 10	Between 10 and 20	Over 20	
Austria	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Belgium	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Cyprus	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Czech Republic	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Estonia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Finland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
France	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Germany	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Greece	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Hungary	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Ireland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Italy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Latvia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Lithuania	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Luxembourg	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Malta	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Poland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Portugal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Slovakia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Slovenia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Spain	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
Sweden	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
The Netherlands	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>
United Kingdom	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="text"/>

Please feel free to give further explanations:

ANNEX III – Questionnaires

★ TIME

On average, approximately how long does it take for your requests to be executed in each receiving Member State?

RECEIVING MEMBER STATE	APPROX. TIME					EXACT TIME (if known)
	Less than one month	From 1 to 2 months	From 2 to 3 months	From 3 to 6 months	More than 6 months	
Austria	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Belgium	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Cyprus	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Czech Republic	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Estonia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Finland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
France	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Germany	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Greece	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Hungary	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Ireland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Italy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Latvia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Lithuania	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Luxembourg	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Malta	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Poland	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Portugal	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Slovakia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Slovenia	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Spain	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
Sweden	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
The Netherlands	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
United Kingdom	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	

Please feel free to give further explanations: