

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

CHAPTER II

TRANSMISSION AND EXECUTION OF REQUESTS

Section 4

Direct taking of evidence by the requesting court

Article 17

1 Where a court requests to take evidence directly in another Member State, it shall submit a request to the central body or the competent authority referred to in Article 3(3) in that State, using form I in the Annex.

2 Direct taking of evidence may only take place if it can be performed on a voluntary basis without the need for coercive measures.

Where the direct taking of evidence implies that a person shall be heard, the requesting court shall inform that person that the performance shall take place on a voluntary basis.

3 The taking of evidence shall be performed by a member of the judicial personnel or by any other person such as an expert, who will be designated, in accordance with the law of the Member State of the requesting court.

4 Within 30 days of receiving the request, the central body or the competent authority of the requested Member State shall inform the requesting court if the request is accepted and, if necessary, under what conditions according to the law of its Member State such performance is to be carried out, using form J.

In particular, the central body or the competent authority may assign a court of its Member State to take part in the performance of the taking of evidence in order to ensure the proper application of this Article and the conditions that have been set out.

The central body or the competent authority shall encourage the use of communications technology, such as videoconferences and teleconferences.

5 The central body or the competent authority may refuse direct taking of evidence only if:

- a the request does not fall within the scope of this Regulation as set out in Article 1;
- b the request does not contain all of the necessary information pursuant to Article 4; or
- c the direct taking of evidence requested is contrary to fundamental principles of law in its Member State.

6 Without prejudice to the conditions laid down in accordance with paragraph 4, the requesting court shall execute the request in accordance with the law of its Member State.

Status:

Point in time view as at 04/12/2008.

Changes to legislation:

There are outstanding changes not yet made to Council Regulation (EC) No 1206/2001. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.