

Cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters

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The Committee on Legal Affairs adopted an own initiative report drafted by Manuel **MEDINA ORTEGA** (PES, ES) on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters. It noted that Regulation (EC) No 1206/2001 has not been enforced as effectively as it might have been. Further action is therefore needed in order to improve cooperation between the Member States' courts for the purposes of taking evidence and enhancing the efficiency of the regulation.

The committee concurs with the Commission that greater efforts should be made by Member States to **bring the Regulation sufficiently to the attention of judges** and practitioners in the Member States in order to encourage direct court-to-court contacts. The direct taking of evidence provided for in the Regulation has shown its potential to accelerate the taking of evidence, without causing any particular problems.

Members consider that it is essential to bear in mind that the central bodies provided for in the Regulation still have an important role to play in overseeing the work of the courts. The **European Judicial Network** can help to solve problems which have not been resolved by the central bodies and recourse to those bodies could be reduced if requesting courts were made more aware of the Regulation. They take the view that the assistance provided by the central bodies may be critical for small local courts faced with a problem relating to the taking of evidence in a cross-border context for the first time.

Recalling that only a few Member States currently have facilities for video-conferencing, the committee advocates the **extensive use of information technology and video-conferencing**, coupled with a secure system for sending and receiving e-mails, which should become in due course the ordinary means of transmitting requests for the taking of evidence. Some Member States mention problems in connection with the compatibility of video links, and this should be taken up under the **European e-Justice strategy**.

Members also refer to the Commission's finding that modern means of communication are 'still used rather rarely', and urge Member States to put more resources into installing modern communications facilities in the courts and training judges to use them. The Commission is asked to produce specific proposals aimed at improving the current state of affairs. The committee takes the view that the appropriate degree of EU assistance and financial support should be provided as soon as possible.

It notes with considerable concern the Commission's finding that the **90-day time-limit** for complying with requests for the taking of evidence, as laid down in the Regulation, is exceeded in a "significant number of cases" and that "in some cases even more than 6 months are required". It calls on the Commission to submit specific proposals on measures to remedy this problem, one option to consider being a complaints body or contact point within the European Judicial Network.

Lastly, the report criticises the fact that, by concluding that the taking of evidence has been improved in every respect as a result of Regulation (EC) No 1206/2001, the Commission report presents an inaccurate picture of the situation. Accordingly, it calls on the Commission to provide practical support, inter alia, in the context of the e-Justice strategy, and make greater efforts in order to realise the true potential of the Regulation for improving the operation of civil justice for citizens, businesses, practitioners and judges.