European Authentic Act

2008/2124(INL) - 04/11/2008

The Committee on Legal Affairs adopted the own-initiative report drafted by Manuel **MEDINA ORTEGA** (PES, ES) containing recommendations to the Commission on the European Authentic Act (Initiative – Rule 39 of the Rules of Procedure).

The report notes that there is a steady increase in the movement of citizens within the European Union and that, as a consequence, legal situations concerning two or more Member States are on the increase.

In its Communication on the Hague Programme, the Commission singled out, as one of its priorities, the need to guarantee an effective European area of civil justice, not least as regards the recognition and enforcement of judicial decisions.

The Hague Programme lays down that continued implementation of the programme of mutual recognition is a main priority and that this should be completed by 2011. The Commission recognised that in the field of civil justice one key aspect that needs to be addressed is the recognition of public documents and that, in this respect, there is an urgent need to promote the recognition and enforcement of authentic acts.

In this context, MEPs consider that mutual trust in the field of law within the Community justifies the future abolition of procedures for checking the accuracy of authentic acts in cross-border matters. They consider that this recognition of an authentic act for the purpose of its use in the requested Member State can only be refused in the case of serious and substantiated doubts as to its authenticity, or if recognition is contrary to public policy in the Member State requested.

As a consequence, MEPs request the Commission to submit to Parliament, on the basis of Article 65(a) and the second indent of Article 67(5) of the EC Treaty, a legislative proposal on establishing the mutual recognition and enforcement of authentic acts.

The report stresses that recognition may not result in giving a foreign act greater effect than a national act would have.

The Regulation requested shall apply to all authentic acts on civil and commercial matters except those that relate to property and should or may be subject to entry or mention in a public register. It should not apply either to matters relating to the law applicable to the subject of the authentic act or to questions relating to the competence, organisation and structure of public authorities and officials, including the authentication procedure.