

European Judicial Network in civil and commercial matters

2008/0122(COD) - 23/06/2008 - Legislative proposal

PURPOSE: to enhance the role of the European Judicial Network in civil and commercial matters and amending Council Decision 2001/470/EC.

LEGISLATIVE ACT: Decision of the European Parliament and of the Council.

BACKGROUND: the European Judicial Network in civil and commercial matters was established because it was felt that the gradual establishment of an area of freedom, security and justice entailed the need to improve, simplify and expedite judicial cooperation between Member States. The Network, which has been operating since 1 December 2002, was also intended to facilitate citizens' access to justice in litigation with a cross-border impact by gradually establishing an information system for the public. At the beginning of 2008 the Network had 437 members falling into four categories: 102 contact points, 140 central authorities, 12 liaison magistrates and 181 other judicial authorities active in judicial cooperation.

In a report issued on 16 May 2006, the Commission had observed that the Judicial Network in Civil Matters had generally improved judicial cooperation in the Union, but that it was still far from achieving its full potential. In particular, it had emerged that the effectiveness of the network in accomplishing its tasks depended largely on the still limited performance capacities of its contact points and that these capacities needed to be increased (see "Follow-up documents" in [CNS/2000/0240](#)).

CONTENT: the general objective of this proposal is to enhance the role of the Network in its tasks of facilitating judicial cooperation between Member States and, in particular, the effective and practical application by judges and other legal practitioners of Community instruments and conventions in force between Member States. It also aims to consolidate the Network's role in promoting effective access to justice for the public in the context of cross-border litigation.

Access by legal professions to the Network's activities: the Commission recommended that the Network be gradually opened up to other legal practitioners involved in the administration of justice. As the conduct of civil cases is, to a large extent, the business of the parties before the courts of the Member States, the different legal professions are vital players in civil judicial cooperation. Some Member States have already designated their national chambers of bailiffs or councils of notaries as members of the Network. The proposal does not provide for direct access to the Network for individual members of the legal professions. Only the professional associations representing the different legal professions in each Member State will become members of the Network. The contact points will also be at the disposal of the associations representing the legal professions for the same purposes as for the other authorities.

Consolidation of the legal framework for contact points: the proposal provides that where a Member State designates more than one contact point, it designates one of them as the main contact point, which must devote its time entirely to Network activities to the exclusion of any other functions. It is provided that a judge may assist the main contact point if the latter is not a judge itself, as is the case in some Member States which maintain the freedom to designate any other person to the functions of contact point. This proposal should facilitate the circulation of information to the courts, reduce the reservations about the Network which some judges still have and give the contact points greater legitimacy in the eyes of the judiciary.

The Network's role concerning the application of the law of another Member State: the Network is given additional tasks so that in the future it can play a key role in informing the courts about the content of foreign law. The Decision is amended to provide that, where the law of another Member State is applicable, the courts and authorities responsible for the case can apply to the Network for information on the content of that law. In addition, the contact points must now provide the courts of their Member State with information to facilitate the application of the law of another Member State. For this purpose, when a contact point receives such a request, it can draw support from all the components of the Network in its Member State. To preserve the independence of the requesting authorities, the information contained in the answer will not be binding either on the different authorities in the Network which have contributed or on the court which made the request.

Relations between contact points and central authorities: the proposal stipulates a minimum number of meetings per year between the Network's contact points and the central authorities in each Member State. It is essential to develop exchanges of views and regular contact between these two categories of Network members in the Member States.

Enhancing the contact points' activities: contact points must present a two-yearly report on their activities. The Decision, which initially covered only the communications facilities used by the contact points, has been adjusted to provide for faster processing of requests for judicial cooperation within the Network. The figures notified by some contact points indicate that in 2007 requests were processed on average within seven working days. However, there are disparities between contact points and relatively long processing times have been reported for some requests. Yet the intervention of the Network as compared with pre-existing cooperation structures, in particular the central authorities and diplomatic channels, is justified by the added value which it is likely to provide in terms of the speed and ease of circulation of requests.

Member States will be able to send six representatives, instead of four, to contact point meetings.

Improving citizens' access to justice: for persons engaging in cross-border litigation, this was confined to establishing an information system for the public at European level. New provisions specify that the contact points are to inform the public directly about relevant Community and international instruments and the domestic law of the Member States, focusing on access to civil justice. This task will now be performed under the direct responsibility of the contact points in the Member States, i.e. at the level closest to ordinary citizens. In addition, the contact points will be made accessible to the public in the Member States only by means of the most appropriate technological facilities. The Commission's role in the Network's public information system has been amended, and will include translation of specified information.

Relations with other networks and with international organisations: the proposal provides for the establishment of exchanges and cooperation between the Network and other European networks that facilitate cooperation between judicial systems or access to justice. The Network may also develop exchanges with other judicial cooperation networks established by third countries and with international organisations that are developing judicial cooperation. **The proposal** will also make it possible to invite accession countries and candidate countries to attend the Network's meetings.

Budgetary impact: the 2007 work programme for the "Civil Justice" programme provided for EUR 3.25 million for Network management and operation. The 2008 work programme provides for EUR 3.15 million. Of an indicative budget of EUR 3.5 million for grants to actions in 2007, EUR 1 million can be devoted to co-financing national projects for improving the operation of the Judicial Network.