European Authentic Act

2008/2124(INL) - 18/12/2008 - Text adopted by Parliament, single reading

The European Parliament adopted by 478 votes to 26 with 42 abstentions, a resolution containing recommendations to the Commission on the European Authentic Act (Initiative – Rule 39 of the Rules of Procedure).

The own-initiative report had been tabled for consideration in plenary by Manuel **MEDINA ORTEGA** (PES, ES) on behalf of the Committee on Legal Affairs.

The resolution 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 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.

MEPs consider that the creation of a genuine European legal area is based, in the field of litigation, on the cross-border recognition of legal decisions made by a court or administrative authority and, in non-judicial matters, on the cross-border recognition of authentic acts drawn up or registered by a judicial authority or by public officials appointed to authenticate legal acts. The sectoral and inconsistent approach taken by Community legislation in this field is not satisfactory.

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, Parliament requests the Commission to submit to the European 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 resolution 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.