

# European Judicial Network in civil and commercial matters

2008/0122(COD) - 18/06/2009 - Final act

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

**LEGISLATIVE ACT:** Decision No 568/2009/EC of the European Parliament and of the Council amending Council Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters.

**CONTENT:** following a first reading agreement with the European Parliament, the Council adopted a decision amending decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters).

The Decision aims 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. It has become necessary to broaden and strengthen the missions assigned to the network in 2001.

In this context, **four innovations** were developed and should be noted:

**1) Reinforcing the role of contact points both within the Network and in relation to judges and to the legal professions.:** in particular, the contact points shall:

1. ensure that the local judicial authorities receive general information concerning the Community and international instruments relating to judicial cooperation in civil and commercial matters. In particular, they shall ensure that the Network, including the website of the Network, is better known to the local judicial authorities;
2. supply the other contact points, the authorities and the local judicial authorities in their own Member State with all the information needed for sound judicial cooperation between the Member States in order to assist them in preparing operable requests for judicial cooperation and in establishing the most appropriate direct contacts;
3. supply any information to facilitate the application of the law of another Member State that is applicable under a Community or international instrument. To this end, the contact point to which such a request is addressed may draw on the support of any of the other authorities in its Member State in order to supply the information requested. The information contained in the reply shall not be binding on the contact point, the authorities consulted or the authority which made the request;
4. seek solutions to difficulties arising on the occasion of a request for judicial cooperation;
5. facilitate coordination of the processing of requests for judicial cooperation in the relevant Member State, in particular where several requests from the judicial authorities in that Member State fall to be executed in another Member State;
6. contribute to generally informing the public, through the Network's website, on judicial cooperation in civil and commercial matters in the European Union, on relevant Community and international instruments and on the domestic law of the Member States, with particular reference to access to justice;

7. draw up a two-yearly report on their activities, including, where appropriate, best practice in the Network, submit it at a meeting of the members of the Network, and draw specific attention to possible improvements in the Network.

In future, **where the law of another Member State is designated under a Community or an international instrument**, the Network's contact points should take part in informing the judicial and extra-judicial authorities in the Member States of the content of that foreign law.

**2) Increased means to perform their duties:** the Network shall contribute towards providing the public with general information, using the most appropriate technological facilities to inform it about the content and working of Community or international instruments on judicial cooperation in civil and commercial matters. Member States shall ensure that the contact points have sufficient and appropriate facilities in terms of staff, resources and modern means of communication to adequately fulfil their tasks as contact points. If there is more than one contact point, the Member State should ensure effective coordination between them.

To facilitate the practical operation of the Network, each Member State shall ensure that the contact points have adequate knowledge of an official language of the institutions of the Union other than their own, given that they need to be able to communicate with the contact points in other Member States.

**3) Opening the Network to professional associations:** in order to contribute to the accomplishment of their tasks, the contact points shall have appropriate contacts with the **professional associations**, in accordance with rules to be determined by each Member State. In particular, the contacts may include the following activities: (i) exchanges of experience and information as regards the effective and practical application of Community and international instruments; (ii) collaboration in the preparation and updating of the information sheets; (iii) participation in relevant meetings by the professional associations. Professional associations shall not request information from contact points relating to individual cases.

**4) Improving access to justice:** the Network shall contribute towards providing the **public** with general information, using the most appropriate technological facilities to inform it about the content and working of Community or international instruments on judicial cooperation in civil and commercial matters. Arrangements shall be made for the translations into the official languages of the institutions of the Union of information on the relevant aspects of Community law and procedures, including Community case-law, and of the information system's general pages and the information sheets, and install them on the Network's **dedicated website**.

**Meetings of the contact points:** the contact points of the Network shall meet at least once every six months. Each Member State shall be represented at those meetings by one or more contact points, who may be accompanied by other members of the Network, but there shall be no more than six representatives per Member State. Accession countries and candidate countries may be invited to attend these meetings as observers.

**Processing of requests for judicial cooperation:** the contact points shall respond to all requests submitted to them without delay and at the latest within **fifteen days of receipt thereof**. If a contact point cannot reply to a request within that time limit, it shall inform the maker of the request briefly of this fact, indicating how much time it considers that it will need to reply, but this period shall not, as a rule, exceed thirty days. In order to respond as efficiently and rapidly as possible to the requests, the contact points shall use the most appropriate technological facilities made available to them by the Member States.

The Commission shall keep a secure, limited-access **electronic register** of the requests for judicial cooperation and replies. The contact points shall ensure that the information necessary for the establishment and operation of this register is supplied regularly to the Commission.

**Relations with other networks and international organisations:** the Network shall maintain relations and share experience and best practice with the other European networks that share its objectives, such as the European Judicial Network in criminal matters. The Network shall maintain contact and exchanges of experience with the other judicial cooperation networks established between third countries and with international organisations that promote international judicial cooperation.

**Territorial application:** the United Kingdom and Ireland have given notice of their wish to take part in the adoption and application of this Decision. Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application however, it may be represented at the Network meetings.

**Reporting:** no later than 1 January 2014, and every three years thereafter, the Commission shall present a report on the activities of the Network. This report shall be accompanied, if appropriate, by proposals aimed at adapting this Decision and shall include information on the Network's activities aimed at making progress with the design, development and implementation of European e-justice, particularly from the point of view of facilitating access to justice.

**ENTRY INTO FORCE:** 1 July 2009.

**APPLICATION:** 1 January 2011 with the exception of certain provisions which shall apply from the date of notification of this Decision to the Member States to which it is addressed.