Basic information

2008/0122(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Decision	Procedure completed
European Judicial Network in civil and commercial matters Amending Decision 2001/470/EC 2000/0240(CNS) **Subject** 7.40.02 Judicial cooperation in civil and commercial matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	RAINYTÉ-BODARD Ona (ALDE)	15/09/2008

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	WALLIS Diana (ALDE)	09/09/2008

Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
JURI Legal Affairs	WALLIS Diana (ALDE)	25/06/2008

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2908	2008-11-27
Justice and Home Affairs (JHA)	2946	2009-06-04

European Commission

Commission DG	Commissioner
Justice and Consumers	BARROT Jacques

Key events

Date	Event	Reference	Summary
23/06/2008	Legislative proposal published	COM(2008)0380	Summary

10/07/2008	Committee referral announced in Parliament, 1st reading		
17/11/2008	Vote in committee, 1st reading		Summary
26/11/2008	Committee report tabled for plenary, 1st reading	A6-0457/2008	
16/12/2008	Decision by Parliament, 1st reading	T6-0601/2008	Summary
16/12/2008	Results of vote in Parliament		
04/06/2009	Act adopted by Council after Parliament's 1st reading		
18/06/2009	Final act signed		
18/06/2009	End of procedure in Parliament		
30/06/2009	Final act published in Official Journal		

Technical information

Procedure reference	2008/0122(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Decision
Amendments and repeals	Amending Decision 2001/470/EC 2000/0240(CNS)
Legal basis	EC Treaty (after Amsterdam) EC 067-p5 EC Treaty (after Amsterdam) EC 061-
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/65216

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE414.310	22/10/2008	
Committee draft report		PE414.369	22/10/2008	
Committee opinion	JURI	PE414.306	04/11/2008	
Specific opinion	JURI	PE416.265	18/11/2008	
Committee report tabled for plenary, 1st reading/single reading		A6-0457/2008	26/11/2008	
Text adopted by Parliament, 1st reading/single reading		T6-0601/2008	16/12/2008	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	03735/2008/LEX	18/06/2009	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2008)0380	23/06/2008	Summary
Commission response to text adopted in plenary	SP(2009)402	29/01/2009	
Follow-up document	COM(2016)0129	10/03/2016	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1909/2008	03/12/2008	

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Decision 2009/0568 OJ L 168 30.06.2009, p. 0035	Summary

European Judicial Network in civil and commercial matters

2008/0122(COD) - 16/12/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 575 votes to 43 with 4 abstentions, a legislative resolution under 1st reading of the codecision procedure, amending the proposal for a decision of the European Parliament and of the Council amending Council Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters. The report had been tabled for consideration in plenary by Ona **JUKNEVICIENE** (ALDE, LT) on behalf of the Committee on Civil Liberties, Justice and Home Affairs.

The amendments were the result of a compromise between Parliament and Council. A number of **new recitals** clarify the provisions of the legislation:

Resources: a new recital states that Member States should assess the resources which they need to make available to the contact points so that they can fully carry out their duties. The internal distribution of competences in the Member States concerning the financing of the activities of the national members of the Network should not be affected by this Decision.

Electronic register: the purpose of the electronic register is to provide information with a view to assessing the performance of the Network and the practical application of Community instruments. Therefore it should not include all the information exchanged between the contact points.

Information: to develop the Network's functions regarding access to justice, the contact points in the Member States should contribute towards providing the public with general information, using the most appropriate technological facilities and at least by providing, on the website of the Member States' ministries of justice, a link to the website of the Network and to the authorities responsible for the actual application of the instruments. This Decision should not be interpreted as imposing on the Member States an obligation to allow direct access by the public to the contact points.

E-Justice: when implementing the Decision, account should be taken of the gradual introduction of the European e-justice system which is intended, in particular, to facilitate judicial cooperation and citizens" access to justice.

In the **operative clauses**, the following amendments have been made:

- Member States shall ensure that the **contact point** has sufficient and appropriate facilities in terms of staff, resources and modern means of communication to adequately fulfil its tasks as a contact point. They shall determine the professional associations and they shall obtain the agreement of the professional associations concerned on their participation in the Network. Where there is more than one association representing a legal profession in a Member State, it shall be the responsibility of that Member State to provide for appropriate representation of that profession on the Network;

- the Network shall develop its activities for the following purposes, in particular, inter alia: the establishment, maintenance and promotion of an **information system** for the public on judicial cooperation in civil and commercial matters in the European Union, relevant Community and international instruments and the domestic law of the Member States, with particular reference to access to justice. The main source of information shall be the Network's website containing up to date information in all official languages of the institutions of the Union;

- contact points should ensure that 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;

- 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.

Each Member State shall ensure, in accordance with the procedures to be determined by it, that the contact point(s) and competent authorities have the means to meet on a regular basis. They should meet once every six months;

- on the processing of requests for judicial cooperation, the amended text states that 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 fifteen days of receipt, it shall inform the requester briefly of this fact, indicating how much time it considers it will need to reply but this period shall not, as a rule, not exceed thirty days;

- the **accession countries** and candidate countries may be invited to attend these meetings as observers. Third countries that are party to international agreements on judicial cooperation in civil and commercial matters concluded by the European Community may also be invited to attend certain Network meetings as observers;

- the Network shall maintain relations and share experiences and best practices with the other European networks that share its objectives, such as the European Judicial Network in criminal matters. The Network shall also maintain such relations with the **European Judicial Training Network** with a view to promoting, where appropriate and without prejudice to national practices, training sessions on judicial cooperation in civil and commercial matters for the benefit of the local judicial authorities of the Member States;

- on the **provision of general information to the public**, the Network shall contribute towards providing the public with general information, using the most appropriate technological facilities to inform it about the content and application of Community or international instruments on judicial cooperation in civil and commercial matters. To that end, the contact points shall promote the information system to the public;

- as regards **evaluation,** no later than three years after the application of this Decision, and every three years thereafter, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the activities of the Network. This report shall be accompanied, if need be, by proposals for adaptations and shall include the Network's activities to progress with the design, development and implementation of European e-Justice, particularly from the point of view of facilitating citizens' access to justice.

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 mustpresent 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 pointsindicate that 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. T**he 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.

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.

European Judicial Network in civil and commercial matters

2008/0122(COD) - 10/03/2016 - Follow-up document

The Commission presents a report on the activities of the European Judicial Network in civil and commercial matters.

To recall, the Network was set up by Council Decision No 2001/470/EC to improve, simplify and expedite effective judicial cooperation between the Member States in civil and commercial matters. It started operations on 1 December 2002. In 2009, Decision No 568/2009/EC modernised the Network's legal framework and expanded its tasks.

Building on the achievements so far, the Commission aims at **further improving the role and functioning of the Network** as indicated in its Communication of 11 March 2014 on the EU Justice Agenda for 2020. This objective was taken forward by the strategic guidelines of the European Council of 26/27 June 2014 for legislative and operational planning for the coming years within the area of freedom, security and justice.

The report is based on the findings of a study commissioned by the Commission in 2014 and comes to the following conclusions:

Functioning of the Network: the Network has provided **substantial support for efficient judicial cooperation** between Member States in civil and commercial matters and the full participation of its members is an integral part of the day-to-day implementation of the Union acquis in civil justice matters. Moreover, the amendments to the Decision introduced in 2009 have contributed to the Network's positive development. The report notes the following developments;

- the **Network's membership structure** has evolved during the last few years, mainly due to the integration of associations of legal professionals and the adoption of new Union law. The Network is made up of 505 members. The contact points designated by the Member States play a central role in the functioning of the Network;
- **meetings of the contact points, and meetings of central authorities** have proved to be essential for the Network to exchange good practices and experience, identify possible shortcomings and develop a common understanding on the application of Union instruments. At the same time, **bilateral meetings** are organised between case-handlers and authorities involved under the cooperation mechanisms provided for in both the Brussels IIa Regulation and the Regulation on Maintenance Obligations. The Network has also set up **working groups** on specific subject matters which have an essential supportive function;
- since the beginning of its operations, it has been a core function of the Network to set up an **online information system for the public** on Union instruments, national measures for their implementation, national law, international instruments and on relevant case-law by the Court of Justice. On that basis, the Network today strongly contributes to the further development of e-Justice. The migration of the Network's website to the European e-Justice Portal should be finalised in 2016;
- currently, the Network has posted 10 695 pages of information **factsheets on national law**, which for the year 2014 generated a total of 359 184 page views. This increased significantly in 2015 with a total of 2 994 122 page views
- after the Network made available factsheets on succession, family mediation, applicable law and maintenance claims;
- the Network has produced **citizens' and practitioners' guides**, aimed at promoting the uniform application of Union law in civil and commercial matters by courts and other legal practitioners. These guides are targeted at citizens or at courts and legal practitioners.

The report notes that **the Network has been proved to work effectively** although improvements in its operations can be made within the existing legal framework. Therefore, the Commission concludes that there is no need to amend the Decision.

Possible improvements: building on initiatives already ongoing, the Commission identifies seven key points for further action to improve the Network's functioning:

1. in line with the Decision and following best practices in some Member States, **all contact points should be given the necessary resources and support** at national level, in order to be able to effectively cope with their increasing tasks;
2. building on best practices in a number of Member States, **networks should be established at national level** in all Member States, bringing together national Network members, ensuring interaction at a national level as well as knowledge sharing and gathering of information;
3. a **stronger integration of judges** and other judicial authorities as well as legal professionals in all of the Network's activities should be ensured;
4. **synergies with other European networks** pursuing similar aims should be extended;
5. an even **greater visibility** of the Network should be achieved, in particular on the basis of the ongoing work, to enhance its presence, firstly, through a dedicated section in the European e-Justice Portal, and secondly, on the national websites of the institutions to which Network members belong. disseminating information via social media and other communication channels should also help the Network gain visibility;
6. the **Network's role in the full ex post evaluation** of existing instruments should be further developed through the identification and collection of key statistical data based on national data collection mechanisms;
7. the Commission intends to assess the **financial and technical implications** of putting in place a tool or adapting an existing electronic information exchange tool for secure communication and registration to be used by the contact points.

The next report will build on the existing findings and will provide a full evaluation of the impact of the activities of the Network.