



COMMISSION OF THE EUROPEAN COMMUNITIES

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**REPORT FROM THE COMMISSION TO THE COUNCIL, THE EUROPEAN  
PARLIAMENT AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE**

**on the application of Council Decision 2001/470/EC establishing a European Judicial  
Network in civil and commercial matters**

{SEC(2006) 579}

## **1. BACKGROUND**

This Commission report is established in accordance with Article 19 of Council Decision No 2001/470/EC of 28 May 2001 (“the Decision”) establishing a European Judicial Network in civil and commercial matters<sup>1</sup> (“the Network”). A study commissioned by the Commission on the operation of the Network can be consulted on the Internet<sup>2</sup> Data on its operation is given in an annex to this report.

The December 1998 Vienna action plan<sup>3</sup> called for the establishment of a judicial network in civil matters on the model of the criminal network, while the 1999 Tampere European Council called on the Commission to establish “an easily accessible information system to be maintained and up-dated by a network of competent national authorities”.

The Commission decided to merge these two mandates in a single initiative. The Council Decision establishing a European Judicial Network, adopted less than a year after the Commission presented its proposal, came into force on 1 December 2002.

## **2. CHARACTERISTICS AND OPERATION OF THE NETWORK**

### **2.1. The Network’s contact points**

In October 2005 the network comprised 424 members in four categories:

- a) the contact points (93 members);
- b) the central authorities provided for in Community instruments and international agreements (159 members);
- c) the liaison magistrates (13 members);
- d) other judicial or administrative authorities with responsibilities for judicial cooperation (159 members).

Particulars of the contact points were distributed in each Member State in 2003 and 2005 by means of information leaflets published by the Commission. But the efficiency with which the information was distributed to the courts varied widely from one Member State to another.

The Decision only requires the Member States to designate one contact point. But it is open to them to designate several, though only in limited numbers.

93 contact points were designated for 24 Member States, giving an average of 3.8 each. Member States designated between 2 and 5 contact points, though one Member State (Greece) designated 9 and another (Germany) 17. Where there are several contact points, it is up to the Member State to ensure coordination among them.

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<sup>1</sup> OJ L 174, 27.6.2001, p. 25.

<sup>2</sup> [http://europa.eu.int/comm/justice\\_home/doc\\_centre/civil/doc\\_civil\\_intro\\_en.htm](http://europa.eu.int/comm/justice_home/doc_centre/civil/doc_civil_intro_en.htm)

<sup>3</sup> OJ C 19, 23.1.1999, p. 1.

All contact points have modern communications facilities, but enjoy rarely a sufficient complement of supporting staff. In addition, only a few are linked by intranet to the judicial system or have managed to set up pages for the Network on a national website. For various reasons, often related to the organisation of the administration of justice, the contact points do not always have the possibility of communicating direct with the judges.

Less than ten Member States have established national sub-networks by designating members of the network under Article 2(1)(d). The Commission has observed that the dissemination of information to the courts and the association of the local judiciary with the Network's activities are more efficient in Member States which have such national networks.

Certain contact points combine their functions either with those of the central authorities referred to above (at least 8 out of 24), or with other functions in the central administration of justice, which means that they also represent their Member State in negotiations in Council working parties. Certain contact points are thus only partially, very partially even in some cases, at the disposal of the Network. In addition, they have uneven access to the assistance they needed from other relevant government departments.

The Commission's evaluation of the operation of the Network, with which members were extensively associated, revealed that the Network's effectiveness in performing its tasks depended very much on the contact points' limited capacity for action, which needs to be increased.

## **2.2. Meetings of the Network**

The Commission organises, chairs and services meetings.

To enable the Network to become operational when the Council Decision came into force on 2 December 2002, the Commission organised three preparatory meetings in 2002. The Network was thus able to hold its inaugural meeting on 4 December 2002.

The Decision requires the contact points to meet at least once every six months. There were four meetings each in 2003 and 2004 and five in 2005. The contact points met fourteen times between 11 February 2003 and 15 November 2005.

The rate of attendance at meetings of contact points was average - two delegates out of a possible four at the eight meetings held between June 2004 and September 2005.

The first annual meeting, open to all members, was organised in December 2002 and partly devoted to setting up the Network. The second annual meeting, held on 15 and 16 January 2004, was devoted to a first assessment of a year's cooperation in the Network. The third annual meeting was held for the first time in a Member State, in Madrid on 13 and 14 December 2004, at the invitation of the General Council of the Spanish judicial authority. This meeting provide a fresh opportunity for a round-table discussion on improving the operation of the Network.

On the initiative of the Commission, and in line with the ideas raised at the round table, the Network drew up Guidelines for the operation of the European Judicial Network in civil and commercial matters in 2004, calling on the Member States to provide it with adequate resources to discharge its tasks effectively. The UK Presidency, acting on a request from the Commission reflecting the wish expressed by members, organised a discussion on the role of the Network in the service of the general public at the informal meeting of Justice Ministers in Newcastle in September 2005.

### **2.3. Communications within the Network**

The Network has a confidential system for information exchanges between members, a “Circa” intranet managed by the Commission.

It was decided that the contact points should notify the Commission of data on these exchanges in matters of judicial cooperation. For 2003 and 2004, the Commission registered 363 requests for judicial cooperation addressed to the Member States’ Network contact points, involving 7 requested countries and 15 requesting countries, though most cases concerned only 3 or 4 (70% of cases concerned only 2 countries). These figures show that the volume of information exchanges via the Network still remains fairly low.

In June 2005 the Commission made a more user-friendly computer tool, the on-line database “Register”, available to contact points. But by 1 November 2005 only eight Member States were using the register and only 115 new cases had been entered.

### **2.4. The Network’s website**

The Decision also tasks the Network with promoting information on justice, in particular in order to gradually set up and update an information system intended for both the general public and the specialists. The ground for the website had been prepared before the Decision came into force, which meant that it was able to go on-line from March 2003.

The Commission manages this website, which it hosts on its Europa site at the following address:

<http://europa.eu.int/civiljustice>

For the 18 legal topics on the site, it has prepared the general information, Community law and international law pages and the general structure of the national pages. Meetings of contact points in 2003 and 2004 were largely devoted to discussions on the structure of the national law pages, subsequently written by the Member States using the common model.

The site contains a link to another computer tool developed by the Commission to supplement it, the **European Judicial Atlas**, which allows easy access to the details of the courts and authorities responsible for implementing a variety of Community instruments (transmission of judicial documents, obtaining evidence abroad, legal aid, etc.) in the Member States. It also contains the various forms provided for by Community instruments, which can be filled in and transmitted on-line.

With assistance from the Network, the Commission has developed tools to promote the website. In 2003 more than 500 000 copies of a booklet targeted at the general public entitled “Civil law at your fingertips” were distributed in the Union. A multilingual poster indicating the address of the Network’s website (3865 copies) was displayed in public places in all the Member States in 2003. This material was translated and distributed in the new Member States. As part of the European Day of Civil Justice established by the Commission and the Council of Europe, the Network has contributed actively since October 2003 to information and awareness-raising campaigns on the operation of civil justice in the Member States.

### **3. THE NETWORK’S OBJECTIVES**

The Decision on the Network pursues three fundamental objectives:

- improving and facilitating judicial cooperation in civil and commercial matters between the Member States in all fields;
- improving the effective and practical application of Community instruments and conventions in force between two or more Member States;
- promoting effective access to justice for the general public.

#### **3.1. Improving judicial cooperation**

The Commission concludes from the information available to it that implementation of the Decision has helped to improve and accelerate judicial cooperation between the Member States in general. The Network has facilitated judicial cooperation between courts in the Union and cut the time taken to process requests via its system of direct relations between contact points. In addition, it has had a significant impact on the settlement of unresolved requests for mutual judicial assistance.

In addition, given the ongoing harmonisation of the conflict-of-laws rules in the Union, the Network can be expected to play an essential role in helping the courts of the Member States when they apply the law of another Member State.

Even so, the evaluation of the operation of the Network has revealed shortcomings, particularly in terms of the resources available to the contact points. It is clear that the Network’s effectiveness in working for its objectives is heavily dependent on the still limited capacity for action of its contact points and that this capacity must be increased.

### 3.2. The Community instruments in practice

One of the Network's essential tasks is to encourage the proper application of Community instruments. At the Network's three annual meetings, debates in the presence of experts and practitioners on an annual discussion topic covered initial experience with application of the Regulation on the transmission of judicial and non-judicial document<sup>4</sup>, the coordination of insolvency procedures in the European Union<sup>5</sup> and implementation of the Regulation on the taking of evidence in the Member States<sup>6</sup>.

In addition, meetings of contact points were devoted to discussing and finalising two practical guides drawn up by the Commission with the aid of independent experts for judges and other practitioners of Union law. These guides concern the new "Brussels II" Regulation concerning parental responsibility<sup>7</sup> and the Regulation on the taking of evidence referred to above and are available on-line on the Network's website (the first was also published in booklet form).

To improve judicial cooperation and the effective application of Community instruments, it will be necessary in future for more information to flow from the courts to the Network on the difficulties of implementation encountered in practical cases and to focus the work of the Network, in particular the contact point meetings, on analysing these practical cases to identify best practices.

The Network should therefore be used as a permanent discussion forum on the practical implementation of the *acquis communautaire* as regards civil justice. The Network's role in the dissemination of information in the courts is indeed crucial, but it is also crucial to ensure that information on difficulties met in dealing with practical cases flows from the courts to the contact points. The situation is still far from satisfactory in these fields.

### 3.3. Facilitating information on civil justice

One of the objectives set for the Network was to prepare and update information on judicial cooperation in civil and commercial matters and the legal systems of the Member States in an accessible web-based information system.

The Network's website was put on-line in March 2003 and already offers the public more than 2000 pages on 18 topics affecting the daily life of citizens and companies for consultation in 20 Community languages. Between July and November 2005 there was a monthly average of 100 000 hits, which is an undeniable success story.

The EIA (European Information Association at <http://www.eia.org.uk>) gave the Network's site its Award for Excellence in European Information Sources (electronic sources category) in 2003.

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<sup>4</sup> Council Regulation (EC) No 1348/2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (OJ L 160, 30.6.2000, p. 37).

<sup>5</sup> Council Regulation (EC) No 1346/2000 of 29 May 2000 on insolvency proceedings.

<sup>6</sup> Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters.

<sup>7</sup> Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000; the practical guide can be consulted at: [http://europa.eu.int/comm/justice\\_home/ejn/parental\\_resp/parental\\_resp\\_ec\\_vdm\\_en\\_rev.pdf](http://europa.eu.int/comm/justice_home/ejn/parental_resp/parental_resp_ec_vdm_en_rev.pdf)

The site as opened to the public was judged to be easy to access, user-friendly and a source of legal information that would otherwise have been very difficult to obtain. Users have described the information provided as being of high quality, useful, relatively complete and up to date.

However, many contact points had difficulties providing the national topic pages on time, which delayed their on-line release. To date, the Commission has still not received the national topic sheets in their entirety. Nor was the Commission able to quickly translate all the pages into all the Union's 20 official languages.

#### **4. SPECIFIC ISSUES PROVIDED FOR BY ARTICLE 19 OF THE DECISION**

##### **4.1. Direct public access to the Network**

Members of the Network generally consider that it is too early to envisage direct public access to the contact points until the resources made available to them by the Member States have been significantly expanded.

But some contact points already answer certain requests from the public. There should gradually be a degree of opening up to the public so as to give citizens better access to justice.

Thought should be given to how to provide direct public access to the contact points by on-line communication facilities, taking inspiration for example from the best practices in dispute settlement in the internal market (SOLVIT network<sup>8</sup>).

##### **4.2. Access to the Network for the legal professions**

The Decision provides for the contact points to be directly accessible only for the judicial and administrative authorities of the Member States. The question of possible direct access for other legal actors and of associating the legal professions in its work was discussed by the contact points in detail in 2005.

Concerns have been expressed about the negative impact that opening the Network up could have on the contact points' limited resources and on ethical issues raised by the fees received by lawyers in private practice from their clients after they have used the free information available from the contact points. On the other hand, there have been calls to develop the supply of information to these professions on the existence of and possible action by the Network, to develop information exchanges (joint conference, invitation to annual meeting of the Network, etc.), and to promote the use of the Network's website by legal practitioners.

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<sup>8</sup> SOLVIT is an on-line problem-solving network set up by the Commission covering instances where internal market legislation is not properly applied by the authorities. There is a SOLVIT centre in each Member State which is committed to providing solutions to these concrete problems free of charge within ten weeks (<http://europa.eu.int/solvit/site/index.htm>).

Members of the Network, on the other hand, were more in favour of opening up to the legal professions, for example by giving their representative bodies direct access to the contact points. The Commission notes that certain contact points already respond to their requests for information, while one Member State (Czech Republic) has even designated a national bar as a member of the network under Article 2(1)(d) of the Decision. Certain Member States have also designated as central authorities (and therefore members of the Network), within the framework of certain instruments, the national Chambers of Bailiffs or Councils of Notaries.

As the conduct of civil actions is largely in the hands of the parties, the various legal professions are effectively the essential actors of judicial cooperation in civil matters in Europe; this will increasingly be the case following the foreseeable adoption of new Community instruments, such as the European Payment Order Regulation and the Small Claims Regulation.

The Commission therefore considers that a gradual opening-up to the legal professions would be a vital asset for the Network in the attainment of its objectives in the European judicial-enforcement area. Thought should also be given to possible co-financing of the Network's activities by the legal professions.

#### **4.3. Synergy with the European Consumer Centres Network (“ECC-Net”)**

Article 19 of the Decision requires the report to consider the question of synergy with the European Extrajudicial Network for the settlement of consumer disputes (EEJ-NET). An ECC-Net (“European Consumer Centres”) was set up at the beginning of 2005 following the assistance merger of the old “European Information Centres”, which provided information and assistance in the event of cross-border consumer disputes, and the European Extrajudicial Network (EEJ- NET). EEJ-NET was directly accessible to the public, and set out to help settle consumer complaints in practical matters out of court and provide access to the existing extrajudicial dispute-settlement systems in the other Member States. The purpose of establishing the ECC-Net network is to simplify the situation and make it possible for consumers to obtain information and assistance direct from a single contact point in each Member State<sup>9</sup>.

In 2004 contacts between the network and the old EEJ-NET network proceeded both at Community level and in the Member States on the initiative of certain contact points.

It should be possible to make better use of synergy between the two networks so that, for example, a dispute which could not be settled in ECC-Net could, if the consumer so wished, benefit from practical legal assistance from the judicial network in order to facilitate referral to a court as part of the future European small claims procedure.

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<sup>9</sup> A full description of the activities of the ECC-Net network and the list of its contact points is available at: [http://europa.eu.int/comm/consumers/redress/ecc\\_network/index\\_en.htm](http://europa.eu.int/comm/consumers/redress/ecc_network/index_en.htm)



#### **4.4. Relations between the various members of the Network**

In addition, the Commission notes that the synergies between the various members of the network in each Member States have been felt to be rather weak. The Network has discussed at length the question of relations between its various components, and several recommendations have been made with a view to developing genuine synergies between the central authorities themselves, between them and the contact points, and between the contact points and the local courts. The Network recommended in particular that a main contact point be identified in each Member State for the exchange of information within the Network and that, if a judge was not designated as a contact point, then a representative of the judiciary be designated as a first contact point for the national contact point.

It has turned out that several Member States have designated a central authority as contact point. The main reasons given in support of such multi-tasking are the need to economise on resources and, in certain cases, the relative infrequency of requests for judicial cooperation. If the functions of Network contact point and central authority are combined within the Member States, there can be problems. It is recommended that the respective roles of contact points and central authorities, as defined in Articles 5 and 6 of the Decision, be clarified and good working relationships between them be established.

The contact points also wished to develop information on the Network's activities in the Member States.

As a privileged forum for meetings and experience-sharing between its members, the Network contributes naturally to increasing mutual confidence between courts in Europe. Moreover, it is at the heart of the Community machinery to facilitate judicial cooperation in civil matters and must accordingly establish relationships with other European networks of judicial organisations or judges working for the same aims, such as the European Network of Councils for the Judiciary, the European Network of Supreme Judicial Courts and the European Judicial Training Network.

#### **5. CONCLUSION**

The Commission considers that by and large the Network has attained the objectives assigned to it but notes that it is still far from having developed its full potential. To this end, it is essential that it be given the necessary means to perform its tasks, which are found to expand in the years to come. The Commission stresses the importance of the Network as an essential tool for establishing a genuine European judicial-enforcement area.

The Commission would accordingly like:

- (1) all the main contact points in the Member States to be able to devote their time entirely to the network and Member States to give them the requisite prerogatives and resources;
- (2) when the main contact point designated is not a judge, a judge always to be designated as supporting contact;
- (3) all contact points to have access to an intranet with the national courts, have specific pages on the national Ministry of Justice website and be able to communicate direct with any local court;

- (4) local contact point correspondents to be established in the courts in each Member State;
- (5) greater efforts to be made to complete the development of the Network's website in terms of content and languages;
- (6) information campaigns to be conducted in each Member State on the Network's activities and the instruments of judicial cooperation, designed for the national courts;
- (7) the Network to continue producing practical guides and developing information campaigns but also to do more to focus on discussing practical cases and disseminating the resultant good practices;
- (8) on-line discussion groups to be created within the Network;
- (9) contact points gradually to become accessible to the public, using on-line communication techniques;
- (10) the Network to be gradually opened up to other legal practitioners involved in the operation of justice; for example, a representative of the various legal professions concerned in each Member State should be able to join the Network or at least have access to the contact point;
- (11) in the context of the previous recommendation, a partnership to be developed with the legal professions to share the extra work generated for the Network by opening up in this way;
- (12) cooperation between the Judicial Network and ECC-Net to be developed to settle specific disputes;
- (13) the functions of Network contact point and central authority to be clearly differentiated in the Member States or measures to be taken to ensure that contact points can fully perform their functions;
- (14) the Member States' central authorities to maintain regular liaison with the contact points, by arranging a minimum number of meetings each year;
- (15) the Network to maintain relations with other European networks of judicial institutions and judges with a view to improving mutual confidence.

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The Commission is planning to report on the activities of the Network every two years from 2006.