

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 28 May 2001

establishing a European Judicial Network in civil and commercial matters

(2001/470/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 61(c) and (d), 66 and 67(1) thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Whereas:

- (1) The European Union has set itself the objective of maintaining and developing the European Union as an area of freedom, security and justice, in which the free movement of persons is assured.
- (2) The gradual establishment of this area and the sound operation of the internal market entails the need to improve, simplify and expedite effective judicial cooperation between the Member States in civil and commercial matters.

- (3) The action plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice⁽⁴⁾ which was adopted by the Council on 3 December 1998 and approved by the European Council on 11 and 12 December 1998 acknowledges that reinforcement of judicial cooperation in civil matters represents a fundamental stage in the creation of a European judicial area which will bring tangible benefits for every European Union citizen.
- (4) One of the measures provided for in paragraph 40 of the action plan is to examine the possibility of extending the concept of the European Judicial Network in criminal matters to embrace civil proceedings.
- (5) The conclusions of the special European Council held at Tampere on 15 and 16 October 1999 recommend the establishment of an easily accessible information system, to be maintained and updated by a Network of competent national authorities.
- (6) In order to improve, simplify and expedite effective judicial cooperation between the Member States in civil and commercial matters, it is necessary to establish at Community level a network cooperation structure — the European Judicial Network in civil and commercial matters.

⁽¹⁾ OJ C 29 E, 30.1.2001, p. 281.

⁽²⁾ Opinion delivered on 5 April 2001 (not yet published in the Official Journal).

⁽³⁾ OJ C 139, 11.5.2001, p. 6.

⁽⁴⁾ OJ C 19, 23.1.1999, p. 1.

- (7) This is a subject falling within the ambit of Articles 65 and 66 of the Treaty, and the measures are to be adopted in accordance with Article 67.
- (8) To ensure the attainment of the objectives of the European Judicial Network in civil and commercial matters, the rules governing its establishment should be laid down in a mandatory instrument of Community law.
- (9) The objectives of the proposed action, namely to improve effective judicial cooperation between the Member States and effective access to justice for persons engaging in cross-border litigation cannot be sufficiently achieved by the Member States and can therefore by reason of the scale or effects of the action be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.
- (10) The European Judicial Network in civil and commercial matters established by this Decision seeks to facilitate judicial cooperation between the Member States in civil and commercial matters both in areas to which existing instruments apply and in those where no instrument is currently applicable.
- (11) In certain specific areas, Community or international instruments relating to judicial cooperation in civil and commercial matters already provide for cooperation mechanisms. The European Judicial Network in civil and commercial matters does not set out to replace these mechanisms, and it must operate in full compliance with them. This Decision will consequently be without prejudice to Community or international instruments relating to judicial cooperation in civil or commercial matters.
- (12) The European Judicial Network in civil and commercial matters should be established in stages on the basis of the closest cooperation between the Commission and the Member States. It should be able to take advantage of modern communication and information technologies.
- (13) To attain its objectives, the European Judicial Network in civil and commercial matters needs to be supported by contact points designated by the Member States and to be sure of the participation of their authorities with specific responsibilities for judicial cooperation in civil and commercial matters. Contacts between them and periodic meetings are essential to the operation of the Network.
- (14) It is essential that efforts to establish an area of freedom, security and justice produce tangible benefits for persons engaging in cross-border litigation. It is accordingly necessary for the European Judicial Network in civil and commercial matters to promote access to justice. To this end, using the information supplied and updated by the contact points, the Network should progressively establish an information system that is accessible to the public, both the general public and specialists.
- (15) This Decision does not preclude the provision of other information than that which is provided for herein, within the European Judicial Network in civil and commercial matters and to the public. The enumeration in Title III is accordingly not to be regarded as exhaustive.
- (16) Processing of information and data should take place in compliance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and of the free movement of such data⁽¹⁾ and Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector⁽²⁾.
- (17) To ensure that the European Judicial Network in civil and commercial matters remains an effective instrument, incorporates the best practice in judicial cooperation and internal operation and meets the public's expectations, provision should be made for periodic evaluations and for proposals for such changes as may be found necessary.
- (18) The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the European Community, have given notice of their wish to take part in the adoption and application of this Decision.
- (19) Denmark, in accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, is not participating in the adoption of this Decision and is therefore not bound by it nor subject to its application,

⁽¹⁾ OJ L 281, 23.11.1995, p. 31.

⁽²⁾ OJ L 24, 30.1.1998, p. 1.

HAS ADOPTED THIS DECISION:

TITLE I

PRINCIPLES OF THE EUROPEAN JUDICIAL NETWORK IN CIVIL AND COMMERCIAL MATTERS

Article 1

Establishment

1. A European Judicial Network in civil and commercial matters ('the Network') is hereby established among the Member States.
2. In this Decision, the term 'Member State' shall mean Member States with the exception of Denmark.

Article 2

Composition

1. The Network shall be composed of:
 - (a) contact points designated by the Member States, in accordance with paragraph 2;
 - (b) central bodies and central authorities provided for in Community instruments, instruments of international law to which the Member States are parties or rules of domestic law in the area of judicial cooperation in civil and commercial matters;
 - (c) the liaison magistrates to whom Joint Action 96/277/JAI of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union⁽¹⁾ applies, where they have responsibilities in cooperation in civil and commercial matters;
 - (d) any other appropriate judicial or administrative authority with responsibilities for judicial cooperation in civil and commercial matters whose membership of the Network is considered to be useful by the Member State to which it belongs.
2. Each Member State shall designate a contact point. Each Member State may, however, designate a limited number of other contact points if they consider this necessary on the basis of the existence of separate legal systems, the domestic distribution of jurisdiction, the tasks to be entrusted to the contact points or in order to associate judicial bodies that frequently deal with cross-border litigation directly with the activities of the contact points.

⁽¹⁾ OJ L 105, 27.4.1996, p. 1.

Where a Member State designates several contact points, it shall ensure that appropriate coordination mechanisms apply between them.

3. The Member States shall identify the authorities mentioned at points (b) and (c) of paragraph 1.
4. The Member States shall designate the authorities mentioned at point (d) of paragraph 1.
5. The Member States shall notify the Commission, in accordance with Article 20, of the names and full addresses of the authorities referred to in paragraph 1, specifying:
 - (a) the communication facilities available to them;
 - (b) their knowledge of languages; and
 - (c) where appropriate, their specific functions in the Network.

Article 3

Tasks and activities of the Network

1. The Network shall be responsible for:
 - (a) facilitating judicial cooperation between the Member States in civil and commercial matters, including devising, progressively establishing and updating an information system for the members of the Network;
 - (b) devising, progressively establishing and updating an information system that is accessible to the public.
2. Without prejudice to other Community or international instruments relating to judicial cooperation in civil or commercial matters, the Network shall develop its activities for the following purposes in particular:
 - (a) the smooth operation of procedures having a cross-border impact and the facilitation of requests for judicial cooperation between the Member States, in particular where no Community or international instrument is applicable;
 - (b) the effective and practical application of Community instruments or conventions in force between two or more Member States;
 - (c) the establishment and maintenance 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.

*Article 4***Modus operandi of the Network**

The Network shall accomplish its tasks in particular by the following means:

1. it shall facilitate appropriate contacts between the authorities of the Member States mentioned in Article 2(1) for the accomplishment of the tasks provided for by Article 3;
2. it shall organise periodic meetings of the contact points and of the members of the Network in accordance with the rules laid down in Title II;
3. it shall draw up and keep updated the information on judicial cooperation in civil and commercial matters and the legal systems of the Member States referred to in Title III, in accordance with the rules laid down in that Title.

*Article 5***Contact points**

1. The contact points shall be at the disposal of the authorities referred to in Article 2(1)(b) to (d) for the accomplishment of the tasks provided for by Article 3.

The contact points shall also be at the disposal of the local judicial authorities in their own Member State for the same purposes, in accordance with rules to be determined by each Member State.

2. In particular, the contact points shall:
 - (a) supply the other contact points, the authorities mentioned in Article 2(1)(b) to (d) and the local judicial authorities in their own Member State with all the information needed for sound judicial cooperation between the Member States in accordance with Article 3, in order to assist them in preparing operable requests for judicial cooperation and in establishing the most appropriate direct contacts;
 - (b) seek solutions to difficulties arising on the occasion of a request for judicial cooperation, without prejudice to paragraph 4 of this Article and to Article 6;
 - (c) 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;
 - (d) collaborate in the organisation of, and participate in, the meetings referred to in Article 9;
 - (e) assist with the preparation and updating of the information referred to in Title III, and in particular with the information system for the public, in accordance with the rules laid down in that Title.

3. Where a contact point receives a request for information from another member of the Network to which it is unable to respond, it shall forward it to the contact point or the member of the Network which is best able to respond to it. The contact point shall remain available for any such assistance as may be useful for subsequent contacts.

4. In areas where Community or international instruments governing judicial cooperation already provide for the designation of authorities responsible for facilitating judicial cooperation, contact points shall address requesters to such authorities.

*Article 6***Relevant authorities for the purposes of Community or international instruments relating to judicial cooperation in civil and commercial matters**

1. The involvement of relevant authorities provided for by Community or international instruments relating to judicial cooperation in civil and commercial matters in the Network shall be without prejudice to the powers conferred on them by the instrument providing for their designation.

Contacts within the Network shall be without prejudice to regular or occasional contacts between these authorities.

2. In each Member State the authorities provided for by Community or international instruments relating to judicial cooperation in civil and commercial matters and the contact points of the Network shall engage in regular exchanges of views and contacts to ensure that their respective experience is disseminated as widely as possible.

3. The contact points of the Network shall be at the disposal of the authorities provided for by Community or international instruments relating to judicial cooperation in civil and commercial matters and shall assist them in all practicable ways.

*Article 7***Language knowledge of the contact points**

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 European Community other than their own, given that they need to be able to communicate with the contact points in other Member States.

Member States shall facilitate and encourage specialised language training for contact point staff and promote exchanges of staff between contact points in the Member States.

*Article 8***Communication facilities**

The contact points shall use the most appropriate technological facilities in order to reply as efficiently and as swiftly as possible to requests made to them.

TITLE II

MEETINGS WITHIN THE NETWORK*Article 9***Meetings of the contact points**

1. The contact points of the Network shall meet no less than once each half year, in accordance with Article 12.
2. Each Member State shall be represented at these meetings by one or more contact points, who may be accompanied by other members of the Network, but there shall be no more than four representatives per Member State.
3. The first meeting of the contact points shall be held no later than 1 March 2003 without prejudice to the possibility of prior preparatory meetings.

*Article 10***Purpose of periodic meetings of contact points**

1. The purpose of the periodic meetings of contact points shall be to:
 - (a) enable the contact points to get to know each other and exchange experience, in particular as regards the operation of the Network;
 - (b) provide a platform for discussion of practical and legal problems encountered by the Member States in the course of judicial cooperation, with particular reference to the application of measures adopted by the European Community;
 - (c) identify best practices in judicial cooperation in civil and commercial matters and ensure that relevant information is disseminated within the Network;
 - (d) exchange data and views, in particular on the structure, organisation and content of and access to the available information mentioned in Title III;
 - (e) draw up guidelines for progressively establishing the practical information sheets provided for by Article 15, in particular as regards the subject matter to be covered and the form of such information sheets;

- (f) identify specific initiatives other than those referred to in Title III which pursue comparable objectives.

2. The Member States shall ensure that experience in the operation of specific cooperation mechanisms provided for by Community or international instruments is shared at meetings of the contact points.

*Article 11***Meetings of members of the Network**

1. Meetings open to all members of the Network shall be held to enable them to get to know each other and exchange experience, to provide a platform for discussion of practical and legal problems met and to deal with specific questions.

Meetings can also be held on specific issues.

2. Meetings shall be convened, where appropriate, in accordance with Article 12.
3. The Commission, in close cooperation with the Presidency of the Council and with the Member States, shall fix for each meeting the maximum number of participants.

*Article 12***Organisation and proceedings of meetings of the Network**

1. The Commission, in close cooperation with the Presidency of the Council and with the Member States, shall convene the meetings provided for by Articles 9 and 11. It shall chair them and provide secretarial services.
2. Before each meeting the Commission shall prepare the draft agenda in agreement with the Presidency of the Council and in consultation with the Member States via their respective contact points.
3. The contact points shall be notified of the agenda prior to the meeting. They may ask for changes to be made or for additional items to be entered.
4. After each meeting the Commission shall prepare a record, which shall be notified to the contact points.
5. Meetings of the contact points and of members of the Network may take place in any Member State.

TITLE III

Article 15

INFORMATION AVAILABLE WITHIN THE NETWORK, AND INFORMATION SYSTEM FOR THE PUBLIC**Information sheets**

Article 13

Information disseminated within the Network

1. The information disseminated within the network shall include:

- (a) the information referred to in Article 2(5);
- (b) any further information deemed useful by the contact points for the proper functioning of the Network.

2. For the purpose of paragraph 1, the Commission shall progressively establish a secure limited-access electronic information exchange-system in consultation with the contact points.

Article 14

Information system for the public

1. An Internet-based information system for the public, including the dedicated website for the Network, shall be progressively established in accordance with Articles 17 and 18.

2. The information system shall comprise the following elements:

- (a) Community instruments in force or in preparation relating to judicial cooperation in civil and commercial matters;
- (b) national measures for the domestic implementation of the instruments in force referred to in point (a);
- (c) international instruments in force relating to judicial cooperation in civil and commercial matters to which the Member States are parties, and declarations and reservations made in connection with such instruments;
- (d) the relevant elements of Community case-law in the area of judicial cooperation in civil and commercial matters;
- (e) the information sheets provided for by Article 15.

3. For the purposes of access to the information mentioned in paragraph 2(a) to (d), the Network should, where appropriate, in its site, make use of links to other sites where the original information is to be found.

4. The site dedicated to the Network shall likewise facilitate access to comparable public information initiatives in related matters and to sites containing information relating to the legal systems of the Member States.

1. The information sheets shall be devoted by way of priority to questions relating to access to justice in the Member States and shall include information on the procedures for bringing cases in the courts and for obtaining legal aid, without prejudice to other Community initiatives, to which the Network shall have the fullest regard.

2. Information sheets shall be of a practical and concise nature. They shall be written in easily comprehensible language and contain practical information for the public. They shall progressively be produced on at least the following subjects:

- (a) principles of the legal system and judicial organisation of the Member States;
- (b) procedures for bringing cases to court, with particular reference to small claims, and subsequent court procedures, including appeal possibilities and procedures;
- (c) conditions and procedures for obtaining legal aid, including descriptions of the tasks of non-governmental organisations active in this field, account being taken of work already done in the Dialogue with Citizens;
- (d) national rules governing the service of documents;
- (e) rules and procedures for the enforcement of judgments given in other Member States;
- (f) possibilities and procedures for obtaining interim relief measures, with particular reference to seizures of assets for the purposes of enforcement;
- (g) alternative dispute-settlement possibilities, with an indication of the national information and advice centres of the Community-wide Network for the Extra-Judicial Settlement of Consumer Disputes;
- (h) organisation and operation of the legal professions.

4. The information sheets shall, where appropriate, include elements of the relevant case-law of the Member States.

5. The information sheets may provide more detailed information for the specialists.

Article 16

Updating of information

All information distributed within the Network and to the public under Articles 13 to 15 shall be updated regularly.

*Article 17***Role of the Commission in the public information system**

The Commission shall:

1. be responsible for managing the information system for the public;
2. construct, in consultation with the contact points, a dedicated website for the Network on its Internet site;
3. provide information on relevant aspects of Community law and procedures, including Community case-law, in accordance with Article 14;
4. (a) ensure that the format of the information sheets is consistent and that they include all information considered necessary by the Network;
(b) thereafter arrange for them to be translated into the other official languages of the Institutions of the Community, and install them on the site dedicated to the Network.

*Article 18***Role of contact points in the public information system**

Contact points shall ensure that

1. the appropriate information needed to create and operate the information system is supplied to the Commission;
2. the information installed in the system is accurate;
3. the Commission is notified forthwith of any updates as soon as an item of information requires changing;
4. the information sheets relating to their respective Member States are progressively established, according to the guidelines referred to in Article 10(1)(e);
5. the broadest possible dissemination of the information sheets installed on the site dedicated to the Network is arranged in their Member State.

TITLE IV

FINAL PROVISIONS*Article 19***Review**

1. No later than 1 December 2005, and at least every five years thereafter, the Commission shall present to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Decision on the basis of information supplied by the contact points. The report shall be accompanied if need be by proposals for adaptations.

2. The report shall consider, among other relevant matters, the question of possible direct public access to the contact points of the Network, access to and involvement of the legal professions in its activities, and synergy with the Community-wide Network for the Extra-Judicial Settlement of Consumer Disputes. It shall also consider the relationship between the contact points of the Network and the competent authorities provided for in Community or international instruments relating to judicial cooperation in civil and commercial matters.

*Article 20***Establishment of the basic components of the Network**

No later than 1 June 2002, the Member States shall notify the Commission of the information required by Article 2(5).

*Article 21***Date of application**

This Decision shall apply from 1 December 2002, except for Articles 2 and 20 which shall apply from the date of notification of the Decision to the Member States to which it is addressed.

This Decision is addressed to the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels, 28 May 2001.

For the Council

The President

T. BODSTRÖM