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Proposal for a

**COUNCIL DECISION**

**establishing a European Judicial Network in civil and commercial matters**

(presented by the Commission)

# **EXPLANATORY MEMORANDUM**

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## **1. BACKGROUND**

By Article 2 of the Treaty on European Union, the Union set itself the objective of maintaining and developing the Union as an area of freedom, security and justice. Article 61(c) of the Treaty establishing the European Community provides that the Council shall adopt measures in the field of judicial cooperation in civil matters in order to establish progressively that area. Among these measures, Article 65(c) includes measures eliminating obstacles to the good functioning of civil proceedings.

The Council and the Commission presented the Vienna European Council on 11 and 12 December 1998 with an Action Plan on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice.<sup>1</sup> The Action Plan 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 Union citizen. One of the measures planned by paragraph 40(d) of the Action Plan within two years is to examine the possibility of extending the concept of the European Judicial Network in criminal matters to embrace civil and commercial proceedings.

On 15 and 16 October 1999 the European Council held a special meeting at Tampere devoted to the establishment of an area of freedom, security and justice in the European Union. Its conclusions, under the heading “A genuine European area of justice”, recommend “the establishment of an easily accessible information system to be maintained and up-dated by a Network of competent national authorities”.

The Finnish Presidency of the Union (second half of 1999) launched the debate on the establishment of a European Judicial Network in civil and commercial matters. The question of information for the general public was raised at a meeting of experts convened by the Commission on 29 November 1999 on the implementation of the conclusions of the Tampere European Council.

Detailed discussions on the establishment and operation of a European Judicial Network in civil and commercial matters continued during the Portuguese Presidency (first half of 2000). The effect is that the Commission, as it announced in its communication to the Council and the European Parliament on the scoreboard to review progress on the creation of an area of “freedom, security and justice” in the European Union,<sup>2</sup> can now present this proposal for a Council Decision.

## **2. OBJECTIVES**

A European Union which secures freedom of movement throughout its territory and establishes a frontier-free single market, with a substantial expansion in exchanges between Member States in civil and commercial matters, raises more and more acutely the question of how members of the general public and firms are to exercise their rights in a cross-border context.

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

<sup>2</sup> COM(2000)167 final, 24.3.2000.

As the European Council acknowledged at Tampere, “the enjoyment of freedom requires a genuine area of justice, where people can approach courts and authorities in any Member State as easily as in their own”. It added that “in a genuine European area of justice individuals and businesses should not be prevented or discouraged from exercising their rights by the incompatibility or complexity of legal and administrative systems in the Member States”.

This, then, is the context for this proposal for a Decision, which seeks to ensure the sound operation of judicial procedures in civil and commercial matters with a cross-border impact. The ultimate aim of the draft is to simplify the life of Europe’s citizens by improving judicial cooperation between the Member States in civil and commercial matters and by giving them easier access to justice in a Member State other than their own.

The instrument proposed as a means of achieving this is the establishment of a European Judicial Network in civil and commercial matters with the double task of improving judicial cooperation between Member States and providing the general public with practical information to facilitate access to justice in cross-border litigation.

The Network, and the information system for the general public which it is to manage, thus aims to offer added value to all persons engaging in cross-border litigation, either by enhancing cooperation between the authorities of the Member States or by making information available on the Internet.

### **3. LEGAL BASIS**

The subject-matter is governed by Article 65 of the Treaty establishing the European Community, and the choice of Article 61(c) is justified by the specific object and purpose of the proposal.

The choice of a mandatory Community instrument in the form of a decision is justified by the need to ensure that its provisions are applied by all the Member States so that its objectives can be attained.

The proposed decision is not applicable in the United Kingdom or Ireland, unless those Member States express their desire to participate in its adoption in accordance with the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union. It is likewise not applicable in Denmark by virtue of the Protocol annexed to the Treaty on European Union that applies in its case.

### **4. JUSTIFICATION FOR THE PROPOSAL IN TERMS OF THE PROPORTIONALITY AND SUBSIDIARITY PRINCIPLES**

This proposal falls within the context of the establishment of an area of freedom, security and justice called for by the Treaties and reinforced by the Tampere European Council. More specifically, the measure aims at networking the authorities of the Member States in a uniform manner throughout the European Union. Since its purpose of improving cooperation between the authorities of the Member States in litigation with a cross-border impact cannot be achieved by the Member States alone, action is needed at Community level. The proposed decision pursues the objective of the coordinated and uniform Union-wide enhancement of judicial cooperation mechanisms and the provision to the public of practical information that might be useful to persons engaging in cross-border litigation.

This proposal lays down only the minimum measures needed to attain the objectives pursued and does not go beyond what is necessary to that end. It is without prejudice to existing cooperation mechanisms and is based extensively on close cooperation between the Commission and the Member States.

## **5. GENERAL PRINCIPLES**

The proposed decision, the provisions of which are commented on in greater detail at point 6, proceeds from a number of principles which it is worth expounding at this stage already:

### **a) Value added for the final user**

The basic justification for the European Judicial Network in civil and commercial matters lies in its ability to facilitate action by persons engaging in cross-border litigation. The Network consequently offer such persons value added in the form of genuine assistance in the exercise of their rights in a cross-border context. Such value can be added in one of two ways: smoother functioning of litigation procedures and better information on the Member States' legal systems.

### **b) Respect for existing cooperation mechanisms: no substitution**

The European Judicial Network must not impede existing cooperation mechanisms. Other Community and international instruments governing judicial cooperation in civil and commercial matters have established cooperation mechanisms between the Member States. This proposal does not set out to modify their scope or to take their place. The proposal accordingly seeks to make clear that the integration of the authorities provided for by Community and international instruments as members of the Network is without prejudice to their powers. The Network's contact points must not handle information requests where mechanisms are already provided for by such instruments.

### **c) Avoiding compartmentalisation**

The Network proceeds, however, from a logic of integrating experience gained in the areas covered by these specific instruments. It is conceived as an instrument to avoid any compartmentalisation in civil and commercial matters, by endeavouring to identify best practices and then disseminating the resultant knowledge. The instrument also serves a complementarity objective – it can, if needed, support existing mechanisms.

### **d) A mechanism for areas not covered by Community or international instruments**

The Network can also be seen as a cooperation mechanism offering valuable channels for action in areas not covered by Community or international instruments. It could be particularly useful here to give the Member States a cooperation structure that will provide them with the assistance they need when preparing and issuing requests for cooperation.

### **e) The Network as an instrument for the construction of the European law-enforcement area**

To put it succinctly, the Network can be expected to develop into an important instrument, an essential instrument even, for the establishment of a European justice

area in civil and commercial matters. The challenge issued by the Treaties demands instruments to permit the development of an overall integrated approach to the whole range of civil and commercial matters. The Network will pursue that objective while respecting existing structures and seeking the requisite synergies. Without prejudice to the powers of other bodies, it should ultimately evolve into a forum for discussion and monitoring of progress accomplished and difficulties met in establishing the European justice area, notably through the input of practical experience from the contact points and the members of Network. It may also turn out to be an instrument of great value for the development of practical initiatives in these matters (see point k)).

**f) Synergy with activities in related areas**

Synergy is needed in civil and commercial matters, as has been seen, but elsewhere also – with initiatives in related areas. There are several Community initiatives that can considerably facilitate the Network's tasks:

- The Dialogue with Citizens, piloted by the Commission's Directorate-General for the Internal Market together with the Member States uses its publications and its website (<http://europa.eu.int/citizens>) to provide the public with information on the rights they enjoy in the single market and the redress procedures for enforcing them.

The Signpost Service helps citizens solve their problems regarding their rights in the internal market; it can be accessed either by a national freephone number or via the Dialogue with Citizens site.

- The Dialogue with Business site (<http://europa.eu.int/business/en/index.html>), the One-Stop Shop operated by the Directorates-General for the Internal Market and Enterprise, is a similar initiative addressed to business.
- The Euro Info Centres (<http://europa.eu.int/comm/enterprise/networks/eic/eic.html>) consist of 270 Euro Info Centres to inform, advise and assist small businesses.
- The European Extra-Judicial Network for resolving consumer disputes, established at the initiative of the Directorate-General for Health and Consumer Protection, is another example of an initiative developed to make life easier for people engaging in litigation in a Member State other than their own.
- The Commission has launched a number of other initiatives regarding out-of-court settlements, notably in relation to e-commerce; examples include the Webtrader scheme, the Electronic Consumer Dispute Resolution System (ECODIR), etc.
- The IDA programme, managed by the Directorate-General for Enterprise, is to facilitate the networking of authorities in the Member States.
- The work done by the Publications Office of the European Communities is evidence of the effort jointly made by all the Community institutions to enhance the transparency of their activities and facilitate access to documents and the law.

In addition, the Network, through its contact points, should be informed of comparable initiatives by the Member States and thus be able to provide the requisite contacts and synergy.

**g) Use of modern communication and information technologies**

The Network should make use of the new communication and information technologies and take the fullest advantage of them. It will develop a dedicated web site on the Commission's site, accessible to the public, and will use e-mail networks for its own operational purposes.

**h) Providing practical information for the public**

The Network is to establish an information system accessible to the general public in order to perform its task of facilitating access to justice in litigation with a cross-border impact.

One of the obstacles most commonly met by persons wishing to exercise their rights in a Member State other than their own is the lack of information on the facilities available to them and how to use them. The Community initiatives mentioned at f) seek to remedy the problems here in their respective areas.

Likewise, in the context of constructing the civil and commercial component of the European law-enforcement area, it is necessary to establish an initiative which, as a result of a joint effort by the Community institutions and the Member States, will provide the public with information helping it to overcome the inevitable initial hesitation about seeking to enforce rights through legal action involving a cross-border element.

Without seeking to usurp the advisory functions of the legal professions, the public authorities can produce information that is comprehensible to the general public regarding dispute-settlement procedures, their practical implications and the constraints they generate, so as to attain the result sought by the Treaty, described by the Tampere European Council as an area "where people can approach courts and authorities in any Member State as easily as in their own".

**i) Gradual stage-by-stage implementation**

To achieve all this, the proposed decision provides for the establishment of a European Judicial Network in civil and commercial matters and, among the practical initiatives expected of the Network, it refers to the provision of certain information to the public.

However, although its objectives are ambitious, the proposed Network is to be realistic as regards implementation. The need for gradual establishment cannot therefore be overstated. The activities and actions explicitly mentioned in the proposal should not be regarded as an objective to be attained immediately but rather as a work programme to be implemented in stages, particularly as regards the provision of information for the general public.

**j) Close cooperation between the Commission and the Member States**

To carry out its work programme and attain its objectives, the Network can only rely on the closest cooperation between the Member States and the Commission. For convening and organising meetings and for developing the information system and more particularly the practical information sheets that are fundamental to it, the proposed decision establishes mechanisms based on cooperation between the Member States and the Commission.

**k) A flexible instrument open to evolution**

As an important and even essential instrument for establishing the European law-enforcement area, the Network is to be flexible and open to evolution.

Of course, the objective of not jeopardising existing cooperation mechanisms has required very clear and precise terms, in order to avoid all risk of ambiguity.

But the provisions describing the tasks of the contact points and the objectives of meetings of the Network have been drafted in flexible terms to cover a wide range of practical tasks while avoiding potentially harmful imprecision. The Network is to be a flexible and pragmatic structure that can devise solutions to a wide range of practical problems; it is therefore impossible at this stage to envisage and describe all the practical forms that its activities might take.

Likewise, the list of specific actions to be launched by the Network under Title III of the proposal for a decision must not be regarded as exhaustive. It is likely that the Network will identify specific areas where a given initiative would be a materially useful means of attaining its objectives. For example, there might be a proposal to develop a database on a specific subject. It would be neither possible nor desirable to give a detailed list of such activities from the outset, especially as one of the purposes of the meetings of the contact points is precisely to identify practical initiatives to meet specific needs as they emerge from progress made by the Network.

In any event, there is a periodic review clause, with provision for proposals for adaptation of the decision if the need arises.

**6. ARTICLE-BY-ARTICLE COMMENTARY**

**Title 1: Principles of the European Judicial Network in civil and commercial matters**

**Article 1**

This Article provides for the establishment of the European Judicial Network in civil and commercial matters.

**Article 2**

Article 2 specifies as clearly as possible how the Network is to be composed. Paragraph 1 defines four categories, which can be combined in two major categories:



- The first major category consists of the contact points provided for by point a). The contact points are the cornerstones of the Network, given the tasks entrusted to them by Article 5.

To attain maximum efficiency, it has been felt that this should not be an unlimited category. If there is not a large number of contact points, it will be easier for them to develop more intensive and better focused contacts, to meet more often and to contribute in a more operational fashion to setting up the information system.

But the fact remains that, in respect to the number of contact points in each Member State, flexibility must always be the order of the day. Since the function of the contact points is to facilitate access to distinct legal systems, States that have more than one system or are highly decentralised may need to designate more than one of them. Paragraph 2 of Article 2 enshrines this flexibility, requiring only that Member States exercising it ensure that there are appropriate coordination mechanisms

In any event, irrespective of the number of contact points designated by each Member State, the proposal is for no more than four representatives per Member State at meetings of contact points (with a great degree of flexibility as to the composition of delegations so that all Member States can be represented on an equal footing).

- In contrast, the second major category (the other members of the Network, meaning the authorities referred to in points b), c) and d) of paragraph 1), is conceived in highly open terms. The point is to maximise the dissemination and impact of the activities of the contact points while ensuring that a comprehensive approach is taken to the entire field of civil and commercial matters and that good practice in some areas is properly spread to others.

Point d) is the clearest example of the open conception of this second major category, as it empowers the Member States to decide to involve in the Network judicial or other authorities which, even if there is no instrument conferring specific cooperation tasks on them, regularly have to deal with cross-border matters.

Article 2 also provides for Member States to notify the Commission of the names and full particulars of the contact points and other members of the Network.

### **Article 3**

Article 3(1) specifies the Network's two chief tasks of facilitating judicial cooperation between the Member States in civil and commercial matters and establishing an information system accessible to the general public.

Paragraph 2 enumerates more specifically the purposes of the Network's areas of activity, corresponding to the two major objectives mentioned above. This is without prejudice to other Community or international instruments governing civil and commercial matters.

Paragraph 3 makes clear that the Network's activities are not to minimise either the importance or the scope of Community or national initiatives for alternative dispute-settlement schemes, of which the European Extra-Judicial Network for resolving consumer disputes, other alternative dispute-settlement schemes and the ongoing debate about codes of conduct are useful examples at Community level.

#### **Article 4**

The Network has three types of *modus operandi*: contacts between members, meetings and the provision of certain types of information to the general public.

#### **Article 5**

This Article specifies the tasks of the contact points, placing them at the heart of the Network as a veritable cornerstone of its structure. The provisions describing their tasks are drafted in precise yet flexible terms so as to cover a variety of practical tasks that are difficult to envisage and describe in advance.

Paragraph 3 illustrates the flexibility that is to guide the Network's operation: where a contact point cannot respond to a request for information, it is to forward it to whoever is best placed to respond – another contact point or another member of the Network. It must remain available to provide assistance in the event of subsequent contacts. This may be particularly (but not exclusively) useful in relation to Member States that have several legal systems or are highly decentralised.

Paragraph 4 is intended to provide very clearly that the Network contact points will have no power to respond to requests for information relating to areas covered by other Community or international instruments.

#### **Article 6**

In the course of preparatory discussions on this proposal, the Member States expressed concern about the interaction between the Network and existing Community and international instruments.

The principle of acting without prejudice to existing cooperation mechanisms is, of course, one of the fundamental principles of the proposal.

Article 6 abides by this principle but also sets out to give effect to two others:

- facilitating the development of a comprehensive approach to civil and commercial matters while avoiding fragmentation when constructing the civil and commercial component of the European law-enforcement area;
- ensuring that useful experience gained in a given area is shared with players in other areas.

While paragraph 1 clearly establishes the principle of “non-interference” with existing mechanisms, paragraph 2, in strict compliance with this principle, seeks to promote information exchanges between the contact points and the authorities designated by existing instruments. Paragraph 3 provides that the contact points are to be available to those authorities where necessary.

#### **Article 7**

Given their functions, the contact points must be expected to have the requisite language knowledge.

## **Article 8**

This Article reflects the importance of the Network having modern communication and information technologies to help it perform its tasks.

This Article, like all the others, will be implemented gradually.

Initially the Commission's intention is to propose an internal network with access confined to the contact points, using the CIRCA application. CIRCA, which was developed by the IDA Programme, is an Internet tool that allows information to be made available to a limited number of users. It has a number of security features, such as access control (passwords) and confidentiality (encryption).

After that, it will be up to the Network, at meetings of its contact points and members, to assess its needs and decide on the measures to be taken, such as extending CIRCA site access to all Network members or, if security considerations warrant it, to use higher-security communication facilities (virtual private network).

## **Title II: Implementation and operation of the Network**

### **Article 9**

This Article determines the minimum frequency of meetings of the contact points and the maximum number of representatives (four) that the Member States may send to them. Without prejudice to the possibility given to the Member States by Article 2 of designating additional contact points, there has to be a limit on the number of representatives per Member State in view of operational constraints. But within this limit, paragraph 2 also offers the Member States a degree of flexibility in deciding how their delegation is to be composed.

### **Article 10**

Given the particularly important role of the contact points in the Network, the purposes of their meetings should be specified.

The first objective of the Network is to enable the contact points to get to know each other and establish personal contacts that will be helpful in the performance of the tasks entrusted to them by Article 5.

There is also a need for a forum where contact points can exchange experience and discuss problems encountered in the performance of their tasks. These meetings can be particularly useful in the context of the construction of the European justice area as they can help identify problems and barriers to the smooth operation of procedures having a cross-border impact.

Meetings are also to be devoted to the construction of the information system accessible to the general public. In particular, regarding the practical information sheets, meetings of contact points are to discuss the subjects to be covered, identify priorities, discuss their structure, determine rates of execution, etc. What this means in practical terms is that the contact points will agree on the structure of each sheet and the results to be attained, and each Member State will then prepare its own sheets.

Meetings of contact points are also to identify other initiatives meeting the same criteria and having the same purposes as those mentioned in Title III but not mentioned there.

## **Article 11**

It must also be provided that that the other members of the Network, meaning all the categories defined in Article 2(1), may meet from time to time even though, due to obvious constraints, they will do so less frequently.

To ensure that meetings can be properly operational, the attendance should be limited to 180.

## **Article 12**

This Article governs the practical aspects of the organisation of meetings. Although a legal basis in the Treaty establishing the European Community gives the Commission a key role, the closest cooperation between the Commission and the Member States is necessary in respect of meetings, as indeed in all other aspects of the proposal. Since the purpose of this initiative is to network the authorities of the Member States, they must be given a very important role.

### **Title III: Information available within the Network and information system for the general public**

## **Article 13**

This Article refers to information available in the Network. The names and particulars of the contact points of the authorities mentioned in Article 2(1) constitute particularly vital information for the operation of the Network.

But this information is not all that is needed for the Network's internal operation, and the Article has therefore to be drafted in open terms (paragraph 2). The object is to build up a corpus of basically technical information which will be useful only to members of the Network in the performance of their tasks.

## **Article 14**

The Network's aim is to provide the general public with information to facilitate access to justice in cross-border litigation. Article 14 describes the content of the information system.

Paragraph 3 a) to d) sets out to facilitate access by the public (and by the legal professions) to the relevant law governing judicial cooperation in civil and commercial matters.

To set up the requisite web site, Article 14 provides for the possibility of links to sites where the original information is to be found and for initiatives in related areas. Here the work done by the Publications Office should be borne in mind: the Office already makes Community law accessible to the general public, and it is currently working on other initiatives to further facilitate access to Community law.

The establishment of these links and the enhanced synergy with the Publications Office should together make it possible to produce a platform site giving access to relevant legal information relating to judicial cooperation in civil and commercial matters within a reasonable time-frame.

The sites on which the information mentioned in Article 14(3) can be found are as follows:

- a) Community legislation in force is already accessible through the Community's EUR-Lex database (<http://europa.eu.int/eur-lex/>) and CELEX (<http://europa.eu.int/celex/>). Commission proposals are also available on CELEX and EUR-Lex, but PreLex also give details of progress in interinstitutional procedures (<http://europa.eu.int/prelex/apcnet.cfm>).

The Publications Office is preparing a merged site containing the three bases currently providing access to Community law and the Official Journal – EUR-Lex, CELEX, and Eudor.

- b) CELEX already contains references to national measures transposing Community instruments; the Publications Office's EULEX project envisages giving access to national implementing measures themselves.
- c) Relevant international instruments are available on the sites of the enacting organisations – the Hague Conference (<http://www.hcch.net/>), the Council of Europe (<http://conventions.coe.int/>) etc.
- d) Community case-law can be consulted on CELEX, and recent judgments can also be consulted on the Court of Justice's site (<http://curia.eu.int/en/index.htm>). A specific base on this latter site gives access to recent decisions on the Brussels and Lugano Conventions on jurisdiction and the enforcement of judgments in civil and commercial matters (<http://curia.eu.int/common/recdoc/convention/en/index.htm>).

Regarding public access to major judgments of the courts of the Member States, a similar mechanism has been devised for the preparation of practical information sheet: meetings of the contact points would identify priorities and the Member States would then have time to supply a predetermined number of missing judgments.

The most carefully targeted links to all these sources could be used as a means of developing an initial platform version of the Network's dedicated site. There will also be links to the Dialogue with Citizens (<http://europa.eu.int/citizens>), the Dialogue with Business (<http://europa.eu.int/business/en/index.html>), the Euro Info Centres (<http://europa.eu.int/comm/enterprise/networks/eic/eic.html>), the Health and Consumer Protection pages concerning the European Extra-Judicial Network for resolving consumer disputes ([http://europa.eu.int/comm/consumers/policy/developments/acce\\_just/index\\_en.html](http://europa.eu.int/comm/consumers/policy/developments/acce_just/index_en.html)) and the future Publications Office initiative to give access to Member States' legal databases.

The principle of gradual progress that inspires the Network means that the site can also be developed by concerted action between the contact points. Nothing precludes, on the contrary, the Network's site being developed by means of other links (such as the Member States' Ministries of Justice or other national sites), either pending completion of the Publications Office's initiatives or independently. And the development of databases on specific subjects within the Network may turn out to be useful in due course. But the definition of the actual content of the site and its future development is one of the activities of the contact points.

Looking beyond the development of the site and creating links to the sites mentioned above, the Commission, as has been stated, has the intention of organising the necessary cooperation and complementarity between the Network and related initiatives. Structures such as the

Signpost Service and the Euro Info Centres, which exist to inform, advise and assist the public, could make a substantial contribution to the Network's tasks.

### **Article 15**

Access to law as such, even if carefully targeted links are there to provide it, will not suffice to give the man in the street proper access to judicial procedures in a Member State other than his own. Hence the need to go further and prepare practical information that is easily comprehensible for the general public.

The proposed decision accordingly contains a detailed provision on the preparation of practical information sheets.

But while the task is not entirely easy, the preparation of information sheets for the general public is not wholly unprecedented. The Dialogue with Citizens site already contains sheets of this type to inform the general public about their rights in the internal market and ways of enforcing them. There are, for instance, sheets on subjects concerning judicial cooperation (access to legal aid and redress procedures) or related areas (administrative procedures and alternative dispute-settlement mechanisms).

This proposal aims to develop a similar mechanism in relation to judicial cooperation in civil and commercial matters and therefore on cross-border litigation. Given what has already been achieved in the Dialogue with Citizens, work does not start from scratch. The Commission's intention is to work for the proper synergy between the two initiatives.

These information sheets will have to be available in all the Community languages.

One final point: the list of sheets given in Article 15 is not to be regarded as exhaustive.

### **Article 16**

Regular updating is of vital importance for the credibility of the Network's site. Article 16 prescribes the details of this.

## **Title IV: Final provisions**

### **Article 17**

This Article lays down the principle of periodic evaluation of the Network and of proposals for changes where the need arises.

The proposal is to be open to future developments. In the light of experience, consideration will have to be given to, among others, questions concerning the future development of the information system involving direct public access to contact points, the access of the legal professions to the Network's activities, and potential synergy with the European Extra-Judicial Network for resolving consumer disputes. The effect of the principle of gradual implementation of the Network will be that it does not embark before time on tasks that it cannot yet perform satisfactorily.

### **Article 18**

This Article defines the preparatory stages for implementation of the Network. Before the Network can begin operating, the Member States must notify the Commission of particulars of their members of the Network. The Commission must begin preparing the Network's web site to ensure that it can come on stream rapidly.

### **Article 19**

This Article defers implementation of the decision by nine months to give time for proper preparations to be made for implementation of the Network.

Proposal for a

**COUNCIL DECISION**

**establishing a European Judicial Network in civil and commercial matters**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in Article 61(c) thereof,

Having regard to the proposal from the Commission,<sup>3</sup>

Having regard to the Opinion of the European Parliament,<sup>4</sup>

Having regard to the Opinion of the Economic and Social Committee,<sup>5</sup>

Having regard to the Opinion of the Committee of the Regions,<sup>6</sup>

Whereas:

- (1) The Union has set itself the objective of maintaining and developing the 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 adopted by the Council and the Commission on 3 December 1998 and approved by the European Council on 11 and 12 December 1998 on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice<sup>7</sup> 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 Union citizen.
- (4) One of the measures planned by paragraph 40(d) of the Action Plan within two years is to examine the possibility of extending the concept of the European Judicial Network in criminal matters to embrace civil and commercial proceedings.

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<sup>3</sup> OJ C , , p. .

<sup>4</sup> OJ C , , p. .

<sup>5</sup> OJ C , , p. .

<sup>6</sup> OJ C , , p. .

<sup>7</sup> OJ C 19, 23.1.1999, p.1.



- (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 up-dated 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.
- (7) This is a subject now falling within the ambit of Article 65 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 must be laid down in a mandatory instrument of Community law.
- (9) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, the objectives of this Decision – 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 be better achieved by the Community. This Decision confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose.
- (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 respect for 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 must be established in stages on the basis of the closest cooperation between the Commission and the Member States; it must be able to take advantage of modern communication and information technologies.
- (13) To attain its objectives, the Network 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 gradually establish an information system that is accessible to the general public.

- (15) This Decision does not preclude the provision of information other than that which is provided for therein within the Network and to the general public; the enumeration in Title III is accordingly not to be regarded as exhaustive.
- (16) To ensure that the Network remains an effective instrument, incorporates the best practice in judicial cooperation and internal operation and meets the general public's expectations, provision must be made for periodic evaluations and for proposals for such changes as may be found necessary.
- (17) In accordance with Article 1 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and the Treaty establishing the European Community, the United Kingdom and Ireland are not participating in the adoption by the Council of the measures provided for by this Decision.
- (18) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark is not participating in the adoption of this Decision; this Decision is accordingly not binding on Denmark, nor is it applicable in its regard,

HAS ADOPTED THIS DECISION:

*Title I: Principles of the European Judicial Network in civil and commercial matters*

*Article 1: Establishment*

A European Judicial Network in civil and commercial matters ("the Network") is hereby established among the Member States.

*Article 2: Composition*

1. The Network shall be composed of:
  - a) central contact points designated by the Member States and, if appropriate, additional contact points designated in accordance with paragraph 2 of this Article;
  - b) central authorities, judicial authorities or other relevant authorities of the Member States with specific responsibilities for judicial cooperation in civil and commercial matters under Community instruments, instruments of international law to which the Member States are parties or rules of domestic law;
  - c) the liaison magistrates to whom Joint Action 96/277/JAI<sup>8</sup> applies, where they have responsibilities in cooperation in civil and commercial matters;

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<sup>8</sup> OJ L 105, 27.4.1996, p.1.

- d) any other appropriate judicial or administrative authority whose membership of the Network is considered to be useful by the Member State to which they belong in view of the relevance of their involvement for the attainment of the objectives of the Network.
2. Each Member State shall designate a central contact point. Member States may designate a limited number of additional 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 them or in order to directly associate judicial bodies that frequently deal with cross-border litigation with the activities of the contact points.

Where a Member State designates additional 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 of the names and full addresses of the authorities referred to in paragraph 1, specifying the communication facilities available to them and their knowledge of languages in accordance with Article 18. This information shall be regularly updated in accordance with Article 16.

### *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,
  - b) devising, gradually establishing and updating an information system that is accessible to the general public.
2. Without prejudice to other Community or international instruments relating to judicial cooperation in civil or commercial matters, the Network shall develop activities for the following purposes in particular:
  - the removal of practical barriers to the smooth operation of procedures having a cross-border impact and to effective judicial cooperation between the Member States, in particular where no Community or international instrument is applicable;
  - the effective implementation of Community instruments or conventions in force between two or more Member States;
  - the facilitation of requests for judicial cooperation addressed by one Member State to another;

- the establishment and maintenance of an information system for the general 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.
3. The Network's activities shall be without prejudice to initiatives taken by the Community or the Member States to promote alternative dispute-settlement schemes.

*Article 4: Modus operandi of the Network*

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

- a) 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;
- b) 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;
- c) it shall elaborate and permanently update certain categories of information on judicial cooperation in civil and commercial matters and the legal systems of the Member States in accordance with the rules laid down in Title III.

*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) assist with the preparation and updating of the information referred to in Title III, and in particular with the information system for the general public, in accordance with the rules laid down in that Title.
3. Where a contact point receives a request for information 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. Where a contact point receives requests for information relating to areas in which Community or international instruments governing judicial cooperation already provide for the designation of authorities responsible for facilitating judicial cooperation, it shall identify those authorities and inform the requestor accordingly so that the requestor may address the request to the appropriate cooperation mechanism.

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

*Article 8: Communication facilities*

1. 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.

2. The Commission shall establish a secure limited-access electronic information exchange system in consultation with the contact points

*Title II: Implementation and operation of the Network*

*Article 9: Meetings of the contact points*

1. The contact points of the Network shall meet from time to time, and no less than three times each 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 three months following the entry into operation of this Decision, 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 met by the Member States in the course of judicial cooperation, with particular reference to 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) define the methodology and establish guidance for gradually establishing the practical information sheets provided for by Article 15, in particular as regards the subject-matters to be covered and the results to be attained by each of them;
  - 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.
2. The first meeting of members of the Network shall be held within the first year following the entry into operation of this Decision
3. Subsequent meetings shall be convened on an ad hoc basis, at the initiative of the Commission or a Member States, in accordance with Article 12.
4. Each Member State shall be represented at these meetings by no more than twelve authorities.

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

1. The Commission, in close cooperation with the Member States and the Presidency of the Union, 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 close consultation with the Presidency of the Union and 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 so that they may comment on it. The record shall be formally adopted at the next following meeting of the contact points. Without prejudice to prior transmission of the draft version not yet adopted, it shall then be notified by the contact points to the other members of the Network in their own Member State.

*Title III: Information available within the Network, and information system for the general public*

*Article 13: Content of information disseminated within the Network*

1. The members of the Network must have permanent access to the information referred to in Article 2(5)  
  
This information shall be available in particular in the electronic information exchange system provided for by Article 8(2).
2. The contact points shall endeavour to provide the contact points of the other Member States, in particular via the electronic information exchange system, with all the information they need for the proper performance of their functions.

*Article 14: Information system for the general public*

1. The Network shall establish an information system for the general public in its area of activity; responsibility for managing the system shall lie with the Commission.
2. The system, and in particular the practical information sheets composing it, shall be established gradually, in close cooperation between the Commission and the Member States, in accordance with the second paragraph of Article 17.
3. The Commission shall make the following information available to the general public, in particular on a web site dedicated to the Network on the Commission's site:
  - 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 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) significant decisions of the Community courts and the courts of the Member States;
  - e) precise, succinct information concerning the legal and judicial systems of the Member States in the form of practical information sheets provided for by Article 15.
4. For the purposes of access to the information mentioned in paragraph 2 a) to e), the Network's dedicated site may create links to sites where the original information is to be found.
5. The site shall likewise facilitate access to comparable general-public information initiatives that exist or are in preparation in related matters and to sites containing information relating to the legal systems of the Member States.

*Article 15: Practical information sheets*

1. The contact points in each Member State shall gradually create practical information sheets relating to their respective Member States.
2. The 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.
3. Sheets shall gradually be created on at least the following subjects:
  - a) legal and judicial systems in the Member States;



- b) procedures for bringing cases to court, with particular reference to small claims;
  - 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) appeal possibilities;
  - f) rules for the enforcement of judgments given in other Member States;
  - g) possibilities for obtaining interim relief measures, with particular reference to seizures of assets for the purposes of enforcement;
  - h) alternative dispute-settlement possibilities, with an indication of the national information and advice centres of the Network for the settlement of consumer disputes;
  - i) organisation and operation of the legal professions.
4. The Commission shall provide information on relevant aspects of Community law and procedures.
  5. The practical information sheets created under the foregoing paragraphs shall be sent to:
    - a) the Commission, which shall install them on the Network's dedicated general-public site and arrange translation into the other official languages of the Community;
    - b) the contact points, which shall arrange the broadest possible dissemination in their Member State.
  6. The practical information sheets shall be updated regularly in accordance with Article 16.

*Article 16: Preparation and updating of available information*

1. All information distributed within the Network and to the general public under Articles 13 to 15 shall be updated permanently.
2. To this end, the contact points shall supply the information needed to create and operate the system, verify the accuracy of the information already in the system and notify the Commission forthwith of any updates as soon as an item of information requires changing.

#### *Title IV: Final provisions*

##### *Article 17: Review*

No later than five years after the date of the entry into force of this Decision, and 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.

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 European Extra-judicial Network for the Settlement of Consumer Disputes.

##### *Article 18: Establishment of the basic components of the Network and the information system*

1. No later than six months before this Decision is put into effect, the Member States shall notify the Commission of the information required by Article 2(5).
2. Before this Decision is put into effect, the Commission in consultation with the contact points, shall construct a site for installation of the information system for the general public.

##### *Article 19: Entry into force and application*

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

It shall have effect nine months following the date of its publication in the *Official Journal of the European Communities*.

This Decision is addressed to the Member States.

Done at Brussels, [...]

*For the Council  
The President*

## **FINANCIAL STATEMENT**

### **1. TITLE OF OPERATION**

Proposal for a Council Decision establishing a European Judicial Network in civil and commercial matters

### **2. BUDGET HEADING(S) INVOLVED**

B5-820

### **3. LEGAL BASIS**

Article 61(c)

### **4. DESCRIPTION OF OPERATION**

#### **4.1 General objective**

The purpose is to establish a European Judicial Network in civil and commercial matters in order to improve judicial cooperation between Member States in civil and commercial matters and establish an information system for the general public.

The draft responds to the mandate given by three political instruments:

- The Council and Commission Action Plan of 3 December 1998, presented to the Vienna European Council of 11 and 12 December 1998, on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice.
- The conclusions of the special European Council at Tampere on 15 and 16 October 1999.
- The Commission communication to the Council and the European Parliament on the scoreboard to review progress on the creation of an area of “freedom, security and justice” in the European Union.

#### **4.2 Period covered and arrangements for renewal**

The European Judicial Network in civil and commercial matters and the information system are to be established for an indeterminate period.

### **5. CLASSIFICATION OF EXPENDITURE OR REVENUE**

5.1 NCE (Non-compulsory expenditure)

5.2 Non-differentiated appropriations

5.3 Type of revenue involved: none

## 6. TYPE OF EXPENDITURE OR REVENUE

Activities at Community level will be financed by the Community budget. The Member States will bear the cost of any additional resources needed for the activities of their contact points and the Network's members.

The activities to be financed from the Community budget are as follows:

- Meetings;
- Development and construction of a web site;
- Construction of a secure limited-access telecommunications network;
- Other activities relating to specific subjects identified by the contact points: studies, construction of databases, pilot cooperation projects, etc.

## 7. FINANCIAL IMPACT

The action proposed is for an indeterminate period. The estimate of the financial impact must allow for the principle that the Network is to be established gradually and will develop and undertake specific projects as progress is made.

The estimated cost of the various aspects of the action are as follows:

- **Preparation of the information sheets:** The cost of preparing practical information sheets should not be considerable, since the Community institutions will be responsible for coordinating the process of defining the structure and content of each of the sheets, which will then be completed by each Member State.
- **Translation of the information sheets:** The process of preparing the information sheets will give rise to translation costs. Certain working papers for the Network will have to be translated, as will the web pages. It is difficult at this stage to give a precise estimate of the impact on the Translation Service, as all will depend on the Network's working rhythm and the nature of the documents. The initial assumption is that there will be two or three information sheets each year, running to two or three pages each. The number of web pages to be translated ought not to exceed 200 pages, all years combined. The basic intention is to cover translation costs internally from the corresponding budget line, but it is quite possible that translations will have to be contracted out. The Commission is taking note of this eventuality and will, if the case arises, endeavour to find the necessary resources on the Network's own budget line.
- **Meetings of contact points:** The cost of meetings of contact points has been estimated on the basis of the principle that the Commission will reimburse travel but not accommodation expenses for four contact points per Member State. The annual number of meetings is estimated at four.
- **Meetings of members of the Network:** The cost of meetings of members of the Network has been calculated on the basis of the principle that the Commission will reimburse travel expenses for twelve authorities per Member State (maximum 180 authorities per meeting). Only one such meeting is planned each year.

- **Web site:** €75 000 is planned for the design and construction of the Network's dedicated web site, to be installed on the Commission's site. A further €30 000 is planned for the future development of the site and maintenance.
- **Database:** Provision must also be made for the design, construction and input of databases on more specific subjects to be identified as the establishment of the Network progresses. These specific initiatives will have an impact when they are launched (€100 000 would in principle be necessary every two years) and they will subsequently involve maintenance and input costs (€50 000).
- **Intranet and Network security:** An initial Intranet site is unlikely to have any additional impact on the Community budget as it will use the CIRCA application developed by the IDA Programme. But at a second stage, the Network may have to respond to additional security requirements by setting up more secure facilities; €100 000 could be necessary in 2002, to be followed by an annual €10 000 for maintenance and development. The Community budget would not cover the Member States' connection costs.
- **Other projects:** An annual €50 000 needs to be earmarked to finance other specific projects identified by the contact points (pilot cooperation projects, development of forms, etc.). It is not possible to identify and define these projects with precision at this stage, and this category will therefore have to remain flexible.

On the basis of these estimates the financial impact of the different phases of the action would be as follows (given as a guide):

- Preparatory phase (year n): €0.155 million
- Start-up phase (year n+1): €0.560 million
- Operational phase (year n+2 and subsequent years): €0.460 million

## 8. FRAUD PREVENTION MEASURES

The general antifraud provisions will be applicable.

## 9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

### 9.1 Specific and quantified objectives; target population

The ultimate aim of the draft is to simplify the life of Europe's citizens by improving judicial cooperation between the Member States in civil and commercial matters and facilitating access to justice in a Member State other than their own. All persons engaging in cross-border litigation are potential beneficiaries of the Council Decision, as a result either of more intensive cross-border cooperation or of the information that will be made accessible on the Internet.

The proposal thus aims to gradually put in place a number of elements enabling these general objectives to be attained. These elements are:

- a) the designation of contact points in the Member States, directly responsible for facilitating judicial cooperation between the Member States by carrying out the tasks conferred on them by the Decision;
- b) identification of a broader category of other members of the Network, bringing together the national authorities directly responsible for cooperation in this field;
- c) performance by the contact points of the tasks conferred on them by Article 5 of the Decision;
- d) meetings of contact points and (less frequently) the members of the Network to enable them to establish the contacts needed for the performance of their functions as specified in Article 5 and provide them with a forum for discussion of questions relating to the establishment and activities of the Network;
- e) establishment of a web site containing information of interest to the general public, and in particular practical information sheets on a wide range of subjects related to judicial procedures;
- f) establishment of a limited-access telecommunications system to allow efficient communication within the Network and provide access to the information needed for the performance of its functions.

The attainment of these objectives requires design, coordination and secretarial services to be supplied by the Commission.

It must also be made clear that the specific activities referred to in the proposed Decision do not exhaust the list of what the Network might eventually undertake. Following meetings of the contact points, in particular, other practical initiatives might be taken through the Network's mechanisms. Databases on specific subjects, initiatives in support of new legislation and so on are but a few examples among others that might emerge from reflection within the Network.

## **9.2 Grounds for the operation**

As can be seen from work done in the European Judicial Network in criminal matters, judicial cooperation between the Member States enjoys the direct benefit of networking between the component authorities.

The purpose of the present initiative is accordingly to establish a network structure in civil and commercial matters. This objective can be adequately attained only through action at Community level. The Decision and its budgetary implications are consequently justified in terms of the subsidiarity principle.

Certain of the activities cited above will not entail substantial additional costs for the Community budget (such is the case of the preparation of the practical information sheets) or else can be charged to existing budget lines (example: translations of the sheets into all the Community languages). But it would be worth providing a separate budget line to finance the operation of the Network so as to cover its needs in the most appropriate fashion.

Some of the elements cited above will entail additional expenditure from the Community budget. But they are indispensable to the attainment of the objectives pursued. The efficient operation of the Network requires that a number of contact points be designated in the Member States, and they must be connected by high-performance information-exchange mechanisms. These contact points must also be able to meet with some regularity to establish the contacts for the performance of their tasks, discuss the problems they encounter and develop the information system for the general public. The incorporation as members of the Network of the authorities of the Member States who are currently responsible for judicial cooperation in civil and commercial matters under Community and international instruments is also necessary to ensure that experience gained in each area is shared and that the activities of the contact points enjoy maximum impact.

The Community budget must be equipped to finance these activities, without prejudice to coverage by the Member States of the part of the expenditure which is properly incumbent on them (personnel, travel and accommodation expenses for contact points and members of the Network not covered by the Community budget, etc.).

### **9.3 Monitoring and evaluation of the operation**

The Network's work programme is ambitious, but it will be implemented gradually. This will provide an excellent means of evaluating progress as the successive stages are completed. In any event the Decision provides for an evaluation no later than five years after its entry into force and every five years thereafter. The evaluation will be accompanied where appropriate by proposals for adaptations to the Decision.

## **10. ADMINISTRATIVE EXPENDITURE (SECTION III, PART A OF THE BUDGET)**

Actual mobilisation of the necessary administrative resources will depend on the Commission's annual decision on the allocation of resources, taking into account the number of staff and additional amounts authorised by the budgetary authority.

### **10.1 Effect on the number of posts**

Type of post		Staff to be assigned to managing the operation		Source		Duration
		Permanent posts	Temporary posts	Existing resources in the DG or department concerned	Additional resources	
Officials or temporary staff	A	1			1	Indefinite Indefinite
	B	1			1	
	C					
Other resources						
Total		2			2	

## 10.2 Overall financial impact of additional human resources

€

Budget heading	Amounts	Method of calculation
A official	€108 000	The amounts are averages and, since the measure is for an unlimited duration, they correspond to total expenditure on additional posts for 12 months.
B official	€108 000	
Total	€216 000	