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## REPORT

on the proposal for a Council decision establishing a European Judicial  
Network in civil and commercial matters  
(COM(2000) 592 – C5-0561/2000 – 2000/0240(CNS))

Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

Rapporteur: Margot Keßler

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

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## PROCEDURAL PAGE

By letter of 7 November 2000 the Council consulted Parliament, pursuant to Article 67 of the EC Treaty, on the proposal for a Council decision establishing a European Judicial Network in civil and commercial matters (COM(2000) 592 – 2000/0240 (CNS)).

At the sitting of 13 November 2000 the President of Parliament announced that she had referred this proposal to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs as the committee responsible and the Committee on Budgets and the Committee on Legal Affairs and the Internal Market for their opinions (C5-0561/2000).

The Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had appointed Margot Keßler rapporteur at its meeting of 10 October 2000.

It considered the Commission proposal and draft report at its meetings of 6 November 2000, 26 February 2001 and 20 March 2001.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Graham R. Watson, chairman; Margot Keßler, rapporteur; Carlos Coelho, Marcello Dell'Utri, Gérard M.J. Deprez, Giuseppe Di Lello Finuoli, Francesco Fiori (for Rocco Buttiglione pursuant to Rule 153(2)), Jorge Salvador Hernández Mollar, Lucio Manisco (for Pernille Frahm), Luís Marinho (for Adeline Hazan), Hartmut Nassauer, Hubert Pirker, Patsy Sørensen, Anna Terrón i Cusí, Christian Ulrik von Boetticher and Jan-Kees Wiebenga.

The opinion of the Committee on Legal Affairs and the Internal Market is attached; (the Committee on Budgets decided on 17 October not to deliver an opinion).

The report was tabled on 21 March 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## LEGISLATIVE PROPOSAL

### Proposal for a Council decision establishing a European Judicial Network in civil and commercial matters (COM(2000) 592 – C5-0561/2000 – 2000/0240(CNS))

The proposal is amended as follows:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

(Amendment 1)  
Recital 1

(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*.

(1) The Union has set itself the objective of maintaining and developing the Union as an area of freedom, security and justice, in which *people can approach courts and authorities in any Member State as easily as in their own*.

*Justification:*

*The amendment incorporates the objective laid down by the Tampere European Council of 15/16 October 1999 in the 'Tampere milestones' (point 5). It should be spelled out that the decision provides for the implementation of this clearly formulated goal.*

(Amendment 2)  
Recital 9

(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.

(9) The *objective* of this Decision *is to ensure effective access to justice and speedy and reliable procedures for persons engaging in cross-border litigation by improving* effective judicial cooperation between the Member States. *In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the Treaty, since this objective* cannot be sufficiently achieved by the Member States *it* can therefore be better achieved by the Community. This Decision confines itself to the minimum required in order to achieve *that objective*

<sup>1</sup> OJ C 29, 30.1.2001, p. 281.

and does not go beyond what is necessary for that purpose.

*Justification:*

*It has to be emphasised that there are not two objectives of equal importance here. Instead, the improvement of judicial cooperation is simply an intermediate objective, the ultimate aim being the creation of an area of justice for citizens.*

(Amendment 3)  
Recital 10 a (new)

***(10a) The European Judicial Network in civil and commercial matters supports and facilitates the application of the Council Regulations on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (No 44/2001 of 22 December 2000) and in matrimonial matters and in matters of parental responsibility for children of both spouses (No 1347/2000 of 29 May 2000). In addition, it provides an instrument for supporting all future decisions concerning the mutual recognition of judgments.***

*Justification:*

*Given the differences between the national systems of justice, the mutual recognition of judgments represents a particular challenge for the Member States. A network of contact points cooperating on a regular basis can therefore provide a very useful input.*

(Amendment 4)  
Recital 16b (new)

***The Commission should consider proposals for the establishment of a Centralised Electronic European Union Causebook and Judgment Registry Database.***

*Justification:*

*This innovation, which is in the spirit of point 29 of the Conclusions of the Tampere European Council, would be invaluable for courts and litigants. It would also enable the European Union to take a world lead. A fully worked-out proposal for a centralised electronic causebook and judgment registry database already exists. Under the proposal, key information contained on court files in the Member State would be copied, using a standard form, to a centralised database for on-line access by interested parties. The advantages of such a system in promoting the convergence and co-ordination of the different national legal systems and in enabling parties to check on the status of trading partners and suppliers, especially in the age of online trading, are obvious. Since it would be inappropriate, in terms of legislative technique, to include a substantive provision setting up such a system in this Decision, the recital merely announces an intention to act on the part of the Commission.*

(Amendment 5)

Article 3, paragraph 2, first indent

- 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 removal of practical barriers to the smooth operation of procedures having a cross-border impact and to effective judicial cooperation between the Member States;

*Justification:*

*Since effective judicial cooperation is already being sought, this addition is superfluous.*

(Amendment 6)

Article 4, (point c a) (new)

***(ca) it shall cooperate with the contact points of the Judicial Network in criminal matters where this is useful and in the common interest; if required, meetings of members of both networks shall be held.***

*Justification:*

*The experiences of the Judicial Network in criminal matters, which was established by Joint Action 98/428/JAI, should be turned to account. It is likely that questions will arise in the context of the Network in civil and commercial matters which have already been tackled by the Network in criminal matters.*

(Amendment 7)

Article 8, paragraph 2

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

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

***Such system, to be developed under the programme for implementing the trans-European networks for the electronic interchange of data between administrations, shall facilitate the exchange of documents and information pursuant to the relevant texts of the Community and the European Union dealing with judicial cooperation.***

*Justification:*

*Advantage should be taken of an existing secure system for electronic interchange of data.*

(Amendment 8)  
Article 11(4)

4. Each Member State shall be represented at these meetings by no more than **twelve** authorities.

4. Each Member State shall be represented at these meetings by no more than **three** authorities. ***The composition of the national delegation may vary from meeting to meeting.***

*Justification:*

*Despite the Commission's assertion in the explanatory memorandum, a meeting of 180 participants could not be "properly operational".*

(Amendment 9)  
Article 12 a (new)

***12a. The applicant countries may participate in all meetings of the contact points and of members of the Network. Following initial contacts, they shall be notified in advance of all meetings, including any ad hoc meetings.***

*Justification:*



*Participation in meetings is intended to make it easier for the applicant countries to implement the acquis communautaire.*

(Amendment 10)  
Article 15(1)

1. The contact points in each Member State shall gradually create practical information sheets relating to their respective Member States.

1. The contact points in each Member State shall gradually create practical information sheets relating to their respective Member States. ***Such information sheets shall be worded in an easily comprehensible language and essentially contain practical information for citizens.***

*Justification*

*Ordinary people would be put off by information sheets if they were worded in too legal a style or contained too much detail.*

(Amendment 11)  
Article 17

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.

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

***In addition, the Commission shall publish an annual report containing detailed audited statistics on the operation of the contact points.***

*Justification:*

*It will be impossible to develop the system in the absence of reliable statistical data.*

## DRAFT LEGISLATIVE RESOLUTION

### **European Parliament legislative resolution on the proposal for a Council decision establishing a European Judicial Network in civil and commercial matters (COM(2000) 592 – C5-0561/2000 – 2000/0240(CNS))**

#### **(Consultation procedure)**

*The European Parliament,*

- having regard to the Commission proposal (COM(2000) 592)<sup>1</sup>,
  - having regard to Article 61c of the EC Treaty,
  - having been consulted by the Council pursuant to Article 67 of the EC Treaty(C5-0561/2000),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the opinion of the Committee on Legal Affairs and the Internal Market (A5-0091/2001),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
  4. Calls for the conciliation procedure to be initiated should the Council intend to depart from the text approved by Parliament;
  5. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
  6. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> OJ C 29, 30.1.2001, p. 281.

## EXPLANATORY STATEMENT

In June 1998 the Council decided, by means of Joint Action 98/428/JAI, to establish a Judicial Network in criminal matters. This operates through national contact points which provide assistance to the local authorities or the contact points in other Member States, facilitate contacts and, if necessary, coordinate activities. Following primarily technical and linguistic teething problems, this Network is now making a marked contribution towards simplifying investigations and other criminal proceedings with a cross-border impact.

The aim of the Commission proposal is to extend the system of cooperation between national contact points to the field of civil and commercial law. In addition, an information system for the public is to be established and practical information sheets drawn up to inform citizens of their rights.

The rapporteur basically welcomes the proposal as an opportunity to simplify judicial cooperation between the Member States and, in particular, to facilitate the operation of cross-border legal procedures.

She considers, however, that there is a need to ensure that the activities of the Network ultimately benefit the general public. The information sheets to be drawn up should provide practical information in easily understandable language, primarily about access to courts, advice and legal aid procedures and the possibility of out-of-court settlements.

The rapporteur also regards it as important to make use of the experiences gained with the establishment of the Judicial Network in criminal matters. It is therefore proposed to make cooperation possible with the members of the Network in criminal matters, in respect of questions which concern both networks equally.

The inclusion of a reference to the IDA computer network, which was set up in the context of trans-European networks (Decision 1999/1719/EC), is intended to draw attention to the fact that an existing structure can be used, thereby saving time and costs.

Another important point is participation by the applicant countries; implementing the *acquis communautaire* represents a huge challenge for these countries, and they should be able to prepare for it in good time.

In the interests of transparency the Commission should be required to publish a summary of reports on meetings of the contact points on its web site. In addition, it is desirable for it to present a report on the application of this decision at three-yearly intervals, instead of every five years, as proposed.

19 March 2001

## **OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET**

for the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs

on the proposal for a Council decision on establishing a European Judicial Network in civil and commercial matters

(COM(2000) 592 – C5-0561/2000 – 2000/0240(CNS))

Draftsman: Diana Wallis

### **PROCEDURE**

The Committee on Legal Affairs and the Internal Market appointed Diana Wallis draftsman at its meeting of 17 October 2000.

It considered the draft opinion at its meetings of 5 March 2001 and 19 March 2001.

At the latter meeting it adopted the following amendments unanimously.

The following were present for the vote: Ana Palacio Vallelersundi chairman; Ward Beysen vice-chairman; Diana Wallis draftsman; Janelly Fourtou, Marie-Françoise Garaud, Evelyne Gebhardt, Gerhard Hager, Malcolm Harbour, Ioannis Koukiadis, Kurt Lechner, Klaus-Heiner Lehne, Neil MacCormick, Arlene McCarthy, Manuel Medina Ortega, Carlos Ripoll i Martínez Bedoya and Matti Wuori; Francesco Fiori (for Antonio Tajani) and Othmar Karas (for Joachim Wuermeling) pursuant to Rule 153(2)).

## AMENDMENTS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

(Amendment 1)  
Recital 16a (new)

***The Network does not detract in any way nor is to be regarded as a substitute for the Grotius Programme<sup>2</sup>.***

*Justification:*

*The Network should not be regarded as supplanting or detracting from the framework for projects of training, information, studies and research for legal practitioners established by the Grotius Programme.*

(Amendment 2)  
Recital 16b (new)

***The Commission should consider proposals for the establishment of a Centralised Electronic European Union Causebook and Judgment Registry Database.***

*Justification:*

*This innovation, which is in the spirit of point 29 of the Conclusions of the Tampere European Council, would be invaluable for courts and litigants. It would also enable the European Union to take a world lead. A fully worked-out proposal for a centralised electronic causebook and judgment registry database already exists. Under the proposal, key information contained on court files in the Member State would be copied, using a standard form, to a centralised database for on-line access by interested parties. The advantages of such a system in promoting the convergence and co-ordination of the different national legal*

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<sup>1</sup> OJ C 029, 30.01.2001, p.281

<sup>2</sup> Joint Action of 28 October 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on a programme of incentives and exchanges for legal practitioners ("Grotius"), OJ L 287, 8.1.1996, p. 3.

*systems and in enabling parties to check on the status of trading partners and suppliers, especially in the age of online trading, are obvious. Since it would be inappropriate, in terms of legislative technique, to include a substantive provision setting up such a system in this Decision, the recital merely announces an intention to act on the part of the Commission.*

(Amendment 3)

Article 7, second paragraph (new)

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.

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.

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

*Justification:*

*The difficulties experienced by the Court of Justice in securing lawyer-linguists, especially for certain languages, suggest that contact points will come up against similar problems. The least that can be done is to promote specialised language courses and exchanges.*

(Amendment 4)

Article 8(2)

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

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***Such system, to be developed under the programme for implementing the trans-European networks for the electronic interchange of data between administrations, shall facilitate the***

*exchange of documents and information pursuant to the relevant texts of the Community and the European Union dealing with judicial cooperation.*

*Justification:*

*Advantage should be taken of an existing secure system for the electronic interchange of data.*

(Amendment 5)  
Article 11(4)

4. Each Member State shall be represented at these meetings by no more than *twelve* authorities.

4. Each Member State shall be represented at these meetings by no more than *three* authorities. *The composition of the national delegation may vary from meeting to meeting.*

*Justification:*

*Despite the Commission's assertion in the explanatory memorandum, a meeting of 180 participants could not be "properly operational".*

(Amendment 6)  
Article 14a (new)

*The Commission shall set up a pilot project whereby practitioners in the Member States are encouraged to provide free or reasonably-priced initial legal advice on specified classes of frequently occurring trans-border disputes. Such practitioners should be identified by a common logo and have access to the information system provided for in Article 14.*

*The success of the pilot project shall be reviewed at regular intervals and, if appropriate, expanded.*

*Consideration shall be given to extending the pilot project to free legal advice*



*centres, consumers' associations and chambers of commerce.*

*Justification:*

*Self-explanatory.*

(Amendment 7)  
Article 16a (new)

***The Commission shall bring forward proposals for the establishment of a Centralised Electronic European Union Causebook and Judgment Registry Database..***

*Justification:*

*Self-explanatory.*

(Amendment 8)  
Article 17

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

No later than ***three*** years after the date of the entry into force of this Decision, and every ***three*** 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

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***In addition, the Commission shall publish an annual report containing detailed audited statistics on the operation of the contact points.***

*Justification:*

*It will be impossible to develop the system in the absence of reliable statistical data.*