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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.6.2008  
COM(2008) 380 final

2008/0122 (COD)

Proposal for a

**DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Decision 2001/470/EC establishing a European Judicial Network in  
civil and commercial matters**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. REASONS AND OBJECTIVES

#### 1.1 Introduction

On 28 May 2001 the Council adopted Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters between all the Member States except Denmark (hereinafter "the Decision")<sup>1</sup>, which has been applicable since 1 December 2002.

The European Judicial Network in civil and commercial matters (hereinafter "the Network") was established because it was felt that the gradual establishment of an area of freedom, security and justice entailed the need to improve, simplify and expedite judicial cooperation between Member States. The Network was also intended to facilitate citizens' access to justice in litigation with a cross-border impact by gradually establishing an information system for the public.

At the beginning of 2008 the Network had 437 members falling into four categories: 102 contact points, 140 central authorities (Article 2(1)(b)), 12 liaison magistrates and 181 other judicial authorities active in judicial cooperation.

The Commission organises the Network's meetings, chairs them and provides secretarial services. The contact points meet at least once every six months. Between 11 February 2003 and 31 January 2008, 19 meetings were held, i.e. four meetings a year on average. All the members of the Network have met every year since 2002.

#### 1.2 General background to the proposal and consultations

Article 19 of the Decision requires the Commission to present to the European Parliament, the Council and the Economic and Social Committee a report on the application of the Decision, which may be accompanied by proposals for its adaptation. The report must consider the issues of the access and involvement of the legal professions in its activities and possible direct public access to the contact points.

This proposal is based on extensive consultation of the different stakeholders, in particular within the Network. As part of its preparation of the report referred to above, the Commission ordered a study on the operation of the Network (hereinafter "the study"), which was carried out between December 2004 and May 2005<sup>2</sup>.

On the basis of this study and of the consultations carried out within the Network since 2004, the Commission presented a report on the application of the Decision on 16 May 2006<sup>3</sup>. In this report under Article 19, the Commission concluded that the Network had, in general, improved judicial cooperation between the Member States.

However, the report pointed out certain deficiencies in the Network's operation. The Commission noted that the Network was far from having developed its full potential and it

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

<sup>2</sup> [http://ec.europa.eu/justice\\_home/doc\\_centre/civil/studies/doc\\_civil\\_studies\\_en.htm](http://ec.europa.eu/justice_home/doc_centre/civil/studies/doc_civil_studies_en.htm)

<sup>3</sup> COM (2006) 203 final, SEC (2006) 579.

was essential that it be given the necessary means to perform its tasks. The Commission nevertheless stressed the importance of the Network as an essential tool for establishing a genuine European law-enforcement area.

In response to this report, the Justice and Home Affairs Council of 19 and 20 April 2007 adopted conclusions on the European Judicial Network<sup>4</sup>.

### **1.3 General objective of the proposal**

The general objective of the proposal is to enhance the role of the Network in its tasks of facilitating judicial cooperation between Member States and, in particular, the effective and practical application by judges and other legal practitioners of Community instruments and conventions in force between Member States. It also aims to consolidate the Network's role in promoting effective access to justice for the general public in the context of cross-border litigation.

These objectives are part of efforts to implement the Hague Programme on strengthening freedom, security and justice in the European Union (hereinafter "the Hague Programme"), adopted by the European Council of 4 and 5 November 2004<sup>5</sup>, which calls for additional efforts to facilitate access to justice and judicial cooperation in civil matters. The proposal to review the Decision establishing the Network is contained in the Council and Commission Action Plan implementing the Hague Programme of 2 June 2005<sup>6</sup>.

It should be emphasised that since the entry into force of the Decision establishing the Network other Community civil justice instruments have been adopted, have come into effect or will do so shortly<sup>7</sup>. The practical and effective implementation of all these instruments will involve enhancing the role of the Network, particularly in order to deal with the increase in requests for information and cooperation which may be expected as a result.

Moreover, in order to implement effectively Community and international instruments on applicable law, the Network will have to develop gradually its assistance to the courts and other authorities concerning the application of foreign law.

This proposal is therefore intended to provide the Network with an updated legal framework, a more effective organisation and increased resources so that it can establish itself within the European area of justice as the key instrument of cooperation between all civil justice stakeholders.

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<sup>4</sup> Doc. 7152/07 JUSTCIV 48.

<sup>5</sup> OJ C 53, 3.3.2005, p. 1.

<sup>6</sup> OJ C 198, 12.8.2005, p. 1.

<sup>7</sup> Directive on legal aid applicable since 30 November 2004, "Brussels Ila" Regulation since 1 March 2005, Directive on compensation to crime victims since 1 January 2006, Regulation on the European Enforcement Order since 21 October 2005, Regulation creating a European order for payment procedure applicable from 12 December 2008, Regulation establishing a European Small Claims Procedure applicable from 1 January 2009, Rome II Regulation on the law applicable to non-contractual relations from 11 January 2009, Regulation amending the Regulation on the service of documents from 13 November 2008, as well as the Directive on certain aspects of mediation in civil and commercial matters of 21 May 2008 and the Rome I Regulation on the law applicable to contractual obligations, which is in the process of being adopted.

## **2. LEGAL ELEMENTS OF THE PROPOSAL**

### **2.1 Legal basis**

The legal basis for this proposal is Article 61(c) of the Treaty, which empowers the Community to adopt measures in the field of judicial cooperation in civil matters referred to in Article 65 in accordance with the second indent of Article 67(5) and under the co-decision procedure provided for in Article 251.

Denmark is not participating in the adoption of the present Decision and is not bound by it or subject to its application by virtue of 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. [This decision does not apply to the United Kingdom and Ireland either unless they give notice of their wish to take part in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community.]

### **2.2 Subsidiarity principle**

As the objectives of the proposed decision, namely to enhance judicial cooperation between the Member States and to ensure effective access to justice for persons engaging in cross-border litigation, cannot be sufficiently coordinated by the Member States and can therefore be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. 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 uniformly by all the Member States so that its objectives can be attained.

### **2.3 Principle of proportionality**

The main objective of the proposed decision is the coordinated and homogeneous enhancement of judicial cooperation between Member States, principally through the existing Network structures. The proposed decision does not affect the existing cooperation mechanisms in the Member States as referred to in Article 2(1)(b) and (d) and is based on the improvement of cooperation between the different components of the Network. The participation of the legal professions in the Network will be based on the designation of participants within the Member States and will help to increase the means of action available to the Network.

Therefore, in accordance with the principle of proportionality set out in Article 5 of the Treaty, this proposal for a decision does not go beyond what is necessary to achieve its objectives.

## **3. BUDGETARY AND FINANCIAL IMPACT**

The proposal is based largely on close collaboration between the Member States and the Commission and on the financial resources made available for improving judicial cooperation under Decision 1149/2007/EC of 25 September 2007 establishing for the period 2007-2013 the specific programme "Civil Justice" under the general programme "Fundamental Rights and Justice". One of the specific objectives of the "Civil Justice" programme is to facilitate the operation of the Network. The financial impact of Network management and operation is therefore taken into account in the multiannual financial envelope of EUR 109.3 million

established for the "Civil Justice" programme. The 2007 work programme for the "Civil Justice" programme provided for EUR 3.25 million for Network management and operation. The 2008 work programme, currently being finalised, provides for EUR 3.15 million for Network management and operation. In the case of grants to actions, the work programme gives priority to projects focusing on improving the understanding of the Network on the part of judges and other practitioners of the law and improving the smooth operation of the Network's contact points and cooperation between the contact points and legal practitioners. Of an indicative budget of EUR 3.5 million for grants to actions in 2007, EUR 1 million can be devoted to co-financing national projects for improving the operation of the Judicial Network.

## **4. DETAILED EXPLANATION OF THE PROPOSAL**

### **4.1 Access by legal professions to the Network's activities**

- Article 2(1)(e)

The purpose of this provision is to open up the Network to the legal professions directly concerned with civil judicial cooperation.

Before any involvement of the legal professions in the Network's activities, thorough consultation of both members of the Network and the legal professions concerned was carried out on the Commission's initiative. In its report of May 2006 the Commission, taking account of the results of this consultation, recommended that the Network be gradually opened up to other legal practitioners involved in the administration of justice. As the conduct of civil cases is, to a large extent, the business of the parties before the courts of the Member States, the different legal professions are vital players in civil judicial cooperation. Their participation is likely to bring added value to legal practice in the European Union and enable the Network to achieve its objectives.

Some Member States have already designated their national chambers of bailiffs or councils of notaries as members of the Network<sup>8</sup>.

For the purposes of this proposal, "the legal professions concerned" means only those which participate directly in the concrete application of Community and international instruments concerning civil justice in the course of judicial or extra-judicial proceedings such as solicitors and barristers, notaries and bailiffs.

In view of the private nature of relations between legal practitioners and their clients, which must not affect the operation of the Network or be affected by practitioners' participation in the Network, the proposal does not provide for direct access to the Network for individual members of the legal professions. Only the professional associations representing the different legal professions in each Member State will become members of the Network under Article 2. The consultations on the subject produced a broad consensus in favour of opening up the Network to the organisations representing those professions.

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<sup>8</sup> Belgium has designated the *Chambre nationale des huissiers de justice* for the purposes of Regulation (EC) No 1348/2000 and France has designated the *Conseil supérieur du notariat* for the 1980 Hague Convention to Facilitate the International Access to Justice and the ICCS Convention on the exchange of information relating to acquisition of nationality.

- Article 2(3) provides that, where there is more than one association representing a legal profession in a Member State, it will be the responsibility of that Member State to organise appropriate representation of that profession on the Network.

- The second subparagraph of Article 5(1) concerning the functions of the contact points has been amended to provide that the contact points are also at the disposal of the authorities referred to in Article 2(1)(e) (associations representing the legal professions) for the same purposes as for the other authorities, in accordance with rules to be determined by each Member State.

#### **4.2 Consolidation of the legal framework for contact points**

One of the issues studied in the evaluation of the Network was the relations between its contact points and the central authorities referred to in Article 6. This aspect of the revision is key to improving the operation of the Network in a number of respects.

- Article 2(2) of the Decision has been adjusted to provide that, where a Member State designates more than one contact point, it designates one of them as the main contact point, which must devote its time entirely to Network activities to the exclusion of any other functions, in particular those performed within the Network by the authorities referred to in points (b), (c), (d) (and the new (e)) in paragraph 1.

It is provided that a judge may assist the main contact point if the latter is not a judge itself, as is the case in some Member States which maintain the freedom to designate any other person to the functions of contact point. This proposal should facilitate the circulation of information to the courts, reduce the reservations about the Network which some judges still have and give the contact points greater legitimacy in the eyes of the judiciary.

#### **4.3 The Network's role concerning the application of the law of another Member State**

The Network is given additional tasks so that in the future it can play a key role in informing the courts about the content of foreign law. Article 3(2)(b) is amended to provide that, where the law of another Member State is applicable, the courts and authorities responsible for the case can apply to the Network for information on the content of that law.

A second subparagraph is added to Article 5(2)(a); it states that the contact points must now provide the courts of their Member State with information to facilitate the application of the law of another Member State. For this purpose, when a contact point receives such a request, it can draw support from all the components of the Network in its Member State. To preserve the independence of the requesting authorities, the information contained in the answer will not be binding either on the different authorities in the Network which have contributed or on the court which made the request.

#### **4.4 Relations between contact points and central authorities**

To make the application of Article 6(2) more effective, a new subparagraph has been added stipulating a minimum number of meetings per year between the Network's contact points and the central authorities in each Member State. It is essential to develop exchanges of views and regular contact between these two categories of Network members in the Member States.

#### **4.5 Enhancing the contact points' activities**

A point (f) is added to Article 5(2) on the functions of the contact points and provides that they must present a two-yearly report on their activities.

Article 8, which initially covered only the communications facilities used by the contact points, has been adjusted to provide for faster processing of requests for judicial cooperation within the Network. The figures notified by some contact points<sup>9</sup> indicate that in 2007 requests were processed on average within seven working days. However, there are disparities between contact points and relatively long processing times have been reported for some requests. Yet the intervention of the Network as compared with pre-existing cooperation structures, in particular the central authorities and diplomatic channels, is justified by the added value which it is likely to provide in terms of the speed and ease of circulation of requests.

The Commission will keep a secure electronic register of exchanges of judicial cooperation between contact points that will be based on their contributions. It will also regularly supply the Network with statistics on requests for judicial cooperation. This will make it possible to enter requests in the register, gather reliable and complete data on requests and related subjects handled by the Network and identify the exact nature of the problems and the instruments involved.

Article 9 is amended to allow Member States to send six representatives, instead of four, to contact point meetings. This means that they will be able to include more judges and experts in their delegations to the thematic meetings provided for in Article 10(1)(b) and (c).

#### **4.6 Improving citizens' access to justice**

Article 3(1)(b) includes effective access to justice for the general public among the Network's tasks and activities. Although recital 9 stated that one of the objectives of the Decision was "*effective access to justice for persons engaging in cross-border litigation*", this effort was, according to recital 14 and Article 3, confined to establishing an information system for the public at European level.

The Hague Programme placed emphasis on the improvement of access to justice for the general public and since 2002 a number of Community instruments have been adopted to this end<sup>10</sup>. This proposal will enable the Network to implement these new instruments more effectively.

A new Article 5(2)(c)a has been inserted, which specifies that the contact points are to inform the public directly about relevant Community and international instruments and the domestic law of the Member States, focusing on access to civil justice. This task will now be performed under the direct responsibility of the contact points in the Member States, i.e. at the level closest to ordinary citizens.

The heading of Title III of the Decision has been re-worded to reflect the Network's new priority as regards public information.

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<sup>9</sup> Figures notified by only six contact points in the Network.

<sup>10</sup> Essentially these are the Directives on legal aid and on compensation to crime victims and the Regulations on a European order for payment procedures and on small claims procedures. Articles 28 of the former Regulation and Article 24 of the latter make explicit reference to the role of the Network in the proper application of their provisions.

It has transpired that obstacles, particularly in terms of available resources, have prevented direct public access to the contact points as envisaged in Article 19 of the Decision. The Commission therefore proposes in Article 13a that, over an initial period, the contact points should gradually be made accessible to the public in the Member States only by means of the most appropriate technological facilities. This proposal will nevertheless enable the Network to implement these new instruments more effectively vis-à-vis the public.

Paragraph 4(b) of Article 17 concerning the Commission's role in the Network's public information system has been amended. The Commission will be responsible for translation into the official languages of the Community of information on the relevant aspects of Community law and procedures, including Community case law, introduced into the information system under Article 14, as well as translation of the system's general pages. For cost-effectiveness reasons the Commission will also translate the information sheets referred to in Article 15 into the same languages, depending on the resources available. The experience gained since 2003 has shown that the translation resources available on the market were inadequate to translate the information sheets into all the languages in reasonable time. This issue will have to be addressed in the context of developing the *eJustice* initiative, under which measures will be considered for facilitating the translation of information for the public.

#### **4.7 Relations with other networks and with international organisations**

An Article 12a has been added to provide for the establishment of exchanges and cooperation between the Network and other European networks that facilitate cooperation between judicial systems or access to justice.

In the report referred to above, the Commission indicated that existing synergies between the Judicial Network and the European Consumer Centres Network (ECC Net) needed to be developed so that, for instance, a consumer who was not able to settle a dispute within the ECC Net could receive practical assistance in gaining access to justice from the Judicial Network. The entry into force on 1 January 2009 of Regulation (EC) No 861/2007 establishing a European Small Claims Procedure makes this proposal all the more necessary.

Article 12a(3) provides that the Network may develop exchanges with other judicial cooperation networks established by third countries and with international organisations that are developing judicial cooperation. An example of such a network would be the Latin American international judicial cooperation network IberRed<sup>11</sup>, in which Spain and Portugal participate, but other regional judicial networks could also be concerned. The Hague Conference on International Private Law, which the Community joined in April 2007, is among the international organisations referred to by this Article.

#### **4.8 Position of the United Kingdom, Ireland and Denmark**

The United Kingdom and Ireland do not participate in cooperation in matters covered by Title IV of the Treaty unless they give notice of their wish to take part in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community.

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<sup>11</sup> The IberRed network, established in October 2004, is a structure made up of contact points in 23 Latin American countries which aims to improve judicial assistance in civil and criminal matters and to reinforce cooperation links between the countries concerned.

Denmark is not participating in the adoption of this Decision and is not bound by it or subject to its application by virtue of 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. However, a new Article 11a has been created to reflect the practice whereby Denmark has been allowed to attend Network meetings as an observer although it has not participated in the application of the Decision. The Agreement between the Community and Denmark extending to the latter the provisions of two Community Regulations concerning civil justice entered into force on 1 July 2007<sup>12</sup>, which makes it all the more necessary that Denmark should be closely associated with the Network's activities.

#### **4.9 The Network and international cooperation**

The new Article 11a(2) will make it possible to invite accession countries to attend the Network's meetings as observers from the moment the act of accession has been signed, in line with a practice established since 2002<sup>13</sup>. This measure will allow them to make useful preparations for their full integration into the Network. The proposal will extend it to the candidate countries.

#### **4.10 Evaluation**

The new Article 19 provides that the Commission is to present a report on the Network's activities to the European Parliament, the Council and the European Economic and Social Committee every three years.

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<sup>12</sup> Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, and Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 1348/2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (OJ L 120, 5.5.2006, pp. 22 and 23).

<sup>13</sup> "Accession countries" here means those with which negotiations have been completed and the accession treaty signed (e.g. Romania and Bulgaria in 2006). "Candidate countries" means countries with which negotiations have commenced and are still under way (Turkey, Croatia, FYROM). The 10 Member States which joined the EU on 1 May 2004 were invited to Network meetings as observers from December 2002. Bulgaria and Romania have attended Network meetings as observers since April 2005.

Proposal for a

**DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) and the second indent of Article 67(5) thereof,

Having regard to the proposal from the Commission<sup>14</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>15</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) The European Judicial Network in civil and commercial matters between the Member States was established by Council Decision 2001/470/EC<sup>16</sup> because it was considered that the establishment of an area of freedom, security and justice entailed the need to improve, simplify and expedite judicial cooperation between Member States. The date of application of that Decision was 1 December 2002.
- (2) The Hague Programme on strengthening freedom, security and justice in the European Union, adopted by the European Council on 4 and 5 November 2004<sup>17</sup>, calls for additional efforts to facilitate citizens' access to justice and judicial cooperation in civil matters. In particular, it focuses on the effective implementation of instruments on civil justice adopted by the European Parliament and the Council and the promotion of cooperation between members of the legal professions with a view to defining best practices.
- (3) In accordance with Article 19 of Decision 2001/470/EC, the Commission presented on 16 May 2006 a report on the Network's operation<sup>18</sup>. The report concluded that, although the Network had generally met the objectives set in 2001, it was still a long way from having fully developed its full potential.

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<sup>14</sup> OJ C [...] of [...], p. [...].

<sup>15</sup> OJ C [...] of [...], p. [...].

<sup>16</sup> OJ L 174, 27.6.2001, p. 25.

<sup>17</sup> OJ C 53, 3.3.2005, p. 1.

<sup>18</sup> Report of 6 May 2006 from the Commission to the Council, the European Parliament and the European Economic and Social Committee on the application of Council Decision 2001/470/EC establishing a European Judicial Network in civil and commercial matters (COM(2006) 203 final)

- (4) In order to achieve the objectives of the Hague Programme as regards improving judicial cooperation and citizens' access to justice and to take on the expected increase in the Network's tasks in the years ahead, the Network needs to have an updated legal framework to increase the means of action available to it.
- (5) It is, firstly, essential to achieve better structuring of the Network's operation in the Member States around a national contact point and thus to reinforce the latter's role both within the Network and in relation to judges, law practitioners and civil society.
- (6) To achieve this, there needs to be a main contact point in each Member State which devotes its time entirely to the Network's tasks and so can fully perform the functions assigned to it by Decision 2001/470/EC.
- (7) In future, where the law of another Member State is designated by a Community instrument or an international convention, the Network's contact points must play an important role in informing the judicial and extra-judicial authorities in the Member States of the content of that foreign law.
- (8) Contact points must process requests for cooperation fast enough to be compatible with the Decision's general objectives.
- (9) To achieve the objectives of Decision 2001/470/EC concerning improved judicial cooperation in the European Union and public access to justice, the legal professions directly involved in the application of Community and international instruments concerning civil justice must become members of the Network through their national organisations.
- (10) To further develop the Network's functions regarding access to justice, the contact points in the Member States should also gradually be made more accessible to the public by means of modern communications facilities.
- (11) In order to improve mutual confidence between judges in the European Union and synergies between the European networks involved, the Network needs to be able to maintain ongoing relations with the other European networks that share its objectives, in particular the networks of judicial institutions and judges.
- (12) To promote international judicial cooperation, the Network needs to be able to develop contacts with the other judicial cooperation networks in the world and with the international organisations that promote international judicial cooperation.
- (13) To allow regular monitoring of progress in achieving the objectives of this Decision, the Commission should present reports to the European Parliament and the Council on the Network's activities.
- (14) Council Decision 2001/470/EC should be amended accordingly.
- (15) As the objectives of the proposed action, namely to enhance effective judicial cooperation between the Member States and to ensure 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 at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality set

out in that Article, this Decision does not go beyond what is necessary to achieve these objectives.

- (16) [The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the European Community, have given notice of their wish to take part in the adoption and application of this Decision.]
- (17) 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 taking part in the adoption of this Decision, which is not therefore binding on or applicable to Denmark,

HAVE ADOPTED THIS DECISION:

*Article 1*

Decision 2001/470/EC is amended as follows:

1) Article 2 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) in point (c), the words "cooperation in civil and commercial matters" are replaced by the words "judicial cooperation in civil and commercial matters";

(ii) the following point (e) is added:

"(e) professional associations representing at national level in the Member States lawyers, notaries, bailiffs and other legal practitioners directly involved in the application of Community and international instruments concerning judicial cooperation in civil and commercial matters."

(b) Paragraph 2 is amended as follows:

(i) the second subparagraph is replaced by the following:

"Where a Member State designates several contact points, it shall designate a main contact point among them and shall ensure that appropriate coordination mechanisms apply between them. The person designated as sole contact point or as main contact point of a Member State shall perform only the contact point functions provided for in this Decision to the exclusion of any other functions, in particular those referred to in paragraph 1(b), (c), (d) and (e)."

(ii) the following subparagraph is added:

"If the contact point designated under the second subparagraph is not a judge, the Member State concerned shall designate a judge to assist it in its liaison tasks with the local judicial authorities. This judge shall be a full member of the Network."

(c) Paragraph 3 is replaced by the following:

"3. The Member States shall identify the authorities referred to in points (b), (c) and (e) of paragraph 1. For the purposes of point 1(e), where there is more than one association representing a legal profession in a Member State, it shall be the responsibility of that Member State to provide for appropriate representation of that profession on the Network."

(d) In paragraph 5, the words "in paragraph 1" are replaced by "in paragraphs 1 and 2".

2) Article 3 is amended as follows:

(a) In paragraph 1, point (b) is replaced by the following:

"(b) facilitating the effective access of the public to justice, in particular through measures providing information on the working of Community and international instruments concerning judicial cooperation in civil and commercial matters."

(b) The following is added to paragraph 2(b):

"in particular, where the law of another Member State is applicable, the courts or authorities responsible for the case can apply to the Network for information on the content of that law."

3) Article 5 is amended as follows:

(a) The second subparagraph of paragraph 1 is replaced by the following:

"The contact points shall also be at the disposal of the local judicial authorities in their own Member State and the authorities referred to in Article 2(1)(e) for the same purposes, in accordance with rules to be determined by each Member State."

(b) Paragraph 2 is amended as follows:

(i) point (a) is replaced by the following:

"(a) supply the other contact points, the authorities mentioned in Article 2(1)(b), (c), (d) and (e) 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; in particular, supply any information to facilitate application of the law of another Member State that is applicable to the dispute or situation under a Community or international instrument. To this end, the contact point to which such a request is addressed may draw on the support of any of the other authorities in its Member State referred to in Article 2 in order to supply the information requested. The information contained in the reply shall not be binding on the contact point, the authorities consulted or the authority which made the request."

(ii) the following point (c)a is inserted:

"c)a inform the public on judicial cooperation in civil and commercial matters in the European Union, relevant Community and international instruments and the domestic law of the Member States, with particular reference to access to justice;"

(iii) the following point (f) is added:

"(f) draw up a two-yearly report on their activities and submit it at a meeting of the members of the Network."

4) The following subparagraph is added to Article 6(2):

"To this end, the contact point(s) and competent authorities in each Member State shall meet at least once a year according to rules determined by each Member State."

5) Article 8 is replaced by the following:

*"Article 8*

## **Accelerated processing of requests for judicial cooperation**

1. The contact points shall respond to all requests submitted to them without delay and at the latest within ten days of receipt thereof. If a contact point cannot reply to a request within ten days of receipt thereof, it shall inform the requester briefly of this fact, indicating how long it considers it will need to reply.
2. In order to respond as efficiently and rapidly as possible to the requests referred to in paragraph 1, the contact points shall use the most appropriate technological facilities made available to them by the Member States.
3. The Commission shall keep a secure, limited-access electronic register of the requests for judicial cooperation and replies referred to in Article 5(2)(a), (b), (c) and (c)a and Article 13a. The contact points shall ensure that the information necessary for the establishment and operation of this system is supplied regularly to the Commission.
4. The Commission shall supply the contact points with information on the judicial cooperation requests and replies referred to in paragraph 3 at least once every six months."
- 6) In Article 9(2), the word "four" is replaced by the word "six".
- 7) The following Article 11a is inserted:

*"Article 11a*

## **Participation of observers at Network meetings**

1. Without prejudice to Article 1(2), Denmark may be represented at the meetings referred to in Articles 9 and 11.
2. The accession countries and candidate countries may be invited to attend these meetings as observers. Third countries that are party to the Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters signed at Lugano on 30 October 2007 may also attend certain Network meetings as observers.
3. Each observer State may be represented at the meetings by one or more persons, but under no circumstances may there be more than three representatives per State."
- 8) The following Article 12a is inserted:

*"Article 12a*

## **Relations with other networks and international organisations**

1. The Network shall maintain relations with the other European networks that share its objectives, in particular the European Judicial Network in criminal matters and the European Judicial Training Network.
2. The Network shall maintain relations with the European Consumer Centres Network (ECC Net). In particular, in order to supply any information necessary to facilitate consumer access to justice, the contact points of the European Judicial Network in civil and commercial matters shall be at the disposal of the contact points of ECC Net.

3. In order to meet its responsibilities under Article 3 concerning international instruments on judicial cooperation in civil and commercial matters, the Network shall maintain contact and exchanges of experience with the other judicial cooperation networks established between third countries and with international organisations that promote international judicial cooperation.

4. The Commission, in close cooperation with the Presidency of the Council and the Member States, shall be responsible for implementing the provisions of this Article."

9) The heading of Title III is replaced by the following:

**"Title III**

Information available within the Network and information provided to the public"

10) The following point (c) is added to Article 13(1):

"c) the information referred to in Article 8."

11) The following Article 13a is inserted:

*"Article 13a*

**Provision of information to the public by the contact points**

The Network's contact points shall gradually be made more accessible to the public, using the most appropriate technological facilities to inform it about the content and application of Community or international instruments on judicial cooperation in civil and commercial matters and, where necessary, to direct it to the authorities responsible for their actual application, in particular those referred to in Article 6."

12) Article 17(4)(b) is replaced by the following:

"(b) arrange, within the limits of available resources, for the translation into the official languages of the Institutions of the Community of information on the relevant aspects of Community law and procedures, including Community case law, and of the information system's general pages and the information sheets referred to in Article 15, and install them on the Network's dedicated site."

13) Article 19 is replaced by the following:

*"Article 19*

**Evaluation**

No later than [...] [*three years after the date of application 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 activities of the Network. This report shall be accompanied, if need be, by proposals for adaptations."

14) Article 20 is replaced by the following:

*"Article 20*

**Notification**

No later than [...] [*six months before the date of application of this Decision*], the Member States shall notify the Commission of the information referred to in Article 2(5)."

*Article 2*

*Entry into force*

This Decision shall enter into force on [ ...]

It shall apply from [...], except for Articles 2 and 20, which shall apply from the date of notification of the Decision to the Member States to which it is addressed.

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

Done at Brussels, [...]

*For the European Parliament*  
*The President*

*For the Council*  
*The President*