EUROPEAN PARLIAMENT

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Committee on Legal Affairs

2008/0122(COD)

4.11.2008

OPINION

of the Committee on Legal Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the 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
(COM(2008)0380 – C6-0248/2008 – 2008/0122(COD))

Rapporteur: Diana Wallis

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AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a decision – amending act
Recital 4

Text proposed by the Commission	*Amendment*
(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.	(4) In order to achieve the objectives of the Hague Programme as regards improving judicial cooperation 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.

Amendment 2

Proposal for a decision – amending act
Recital 5

Text proposed by the Commission	*Amendment*
(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***.	(5) It is, firstly, essential to achieve better structuring of the Network's operation in the Member States around a national contact point ***or points*** and thus to reinforce the role ***of the contact points*** both within the Network and in relation to judges ***and certain professional associations***.

Amendment 3

Proposal for a decision – amending act
Recital 6

Text proposed by the Commission	*Amendment*
(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.	(6) To achieve this, there needs to be a main contact point ***or points*** in each Member State***, dedicated*** to the Network's tasks and ***thus*** fully ***capable of performing*** the functions assigned to ***the contact points*** by Decision 2001/470/EC.

Amendment 4

Proposal for a decision – amending act
Recital 6 a (new)

Text proposed by the Commission	*Amendment*
	(6a) A special contact point should be set up at the Court of Justice of the European Communities in order to deal with queries of a general nature, in particular about the framing of references for preliminary rulings.

Amendment 5

Proposal for a decision – amending act
Recital 7

Text proposed by the Commission	*Amendment*
(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.	(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 ***be prepared to*** play an important role in informing the judicial and *extrajudicial* authorities in the Member States ***about*** the content of that law.

Amendment 6

Proposal for a decision – amending act
Recital 8

Text proposed by the Commission	*Amendment*
(8) Contact points must process requests for cooperation ***fast enough*** to be compatible with the Decision's general objectives.	(8) Contact points must process requests for cooperation ***as efficiently and rapidly as possible so as*** to be compatible with the Decision's general objectives.

Amendment 7

Proposal for a decision – amending act
Recital 9

Text proposed by the Commission	*Amendment*
(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***.	(9) To achieve the objectives of Decision 2001/470/EC concerning improved judicial cooperation in the European Union and public access to justice, ***such professional associations*** directly involved in the application of Community and international instruments concerning civil justice ***as are designated by the Member States may*** become members of the Network.

Amendment 8

Proposal for a decision – amending act
Recital 10

Text proposed by the Commission	*Amendment*
(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***.	(10) ***In order*** further ***to facilitate*** access to justice, the contact points in the Member States should ***be encouraged to play an active role in the development of European e-Justice by contributing to the conception and design of the future portals, including the citizens' e-Justice portal***, ***as part of the Community's e-justice policy, designed in particular to afford direct access to justice for citizens.***

	As an initial step, the Internet sites of the national Ministries of Justice should include a link to the site of the European Judicial Network.

Amendment 9

Proposal for a decision – amending act
Recital 11

Text proposed by the Commission	*Amendment*
(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.	(11) In order to improve mutual confidence between judges ***or other legal professionals*** 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***,*** judges ***and legal professionals***.

Justification

It should be clearly stated that cooperation with other official networks, including those of legal professionals, should be enhanced.

Amendment 10

Proposal for a decision – amending act
Article 1 – point 1 – point a – point i a (new)
Decision 2001/470/EC
Article 2 – paragraph 1 – point d a (new)

Text proposed by the Commission	*Amendment*
	(ia) the following point (da) shall be added:
	"(da) a special contact point at the Court of Justice of the European Communities in order to deal with queries of a general nature in relation to proceedings before that institution, in particular about the framing of references for preliminary rulings;";

Amendment 11

Proposal for a decision – amending act
Article 1 – point 1 – point a – point ii
Decision 2001/470/EC
Article 2 – paragraph 1 – point e

Text proposed by the Commission	*Amendment*
(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.	(e) ***such*** professional associations representing at national level in the Member States lawyers, ***civil law*** notaries, bailiffs and other legal practitioners directly involved in the application of Community and international instruments concerning judicial cooperation in civil and commercial matters ***as Member States may delegate with their consent in order to provide feedback on the operation of the civil justice system at European level and with the power to put questions relating to generic issues***.

Amendment 12

Proposal for a decision – amending act
Article 1 – point 1 – point b – point i
Decision 2001/470/EC
Article 2 – paragraph 2 – subparagraph 2

Text proposed by the Commission	*Amendment*
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).	Where a Member State designates several contact points, it shall designate ***one or more*** main contact ***points*** among them and shall ensure that appropriate coordination mechanisms apply between them. ***Member States shall ensure that the*** sole contact point or ***the*** main contact point ***or points for each*** Member State ***are provided with the human and technological resources necessary to fulfil*** the contact point functions ***effectively and expeditiously without detracting from*** any other functions, in particular those referred to in

paragraph 1(b), (c), (d) and (e).

Amendment 13

Proposal for a decision – amending act
Article 1 – point 1 – point b – point ii
Decision 2001/470/EC
Article 2 – paragraph 2 – subparagraph 3

Text proposed by the Commission	*Amendment*
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.	If ***a*** contact point designated under the second subparagraph is not a judge, the ***contact point concerned may ask that*** a judge ***or judges be designated*** to assist it in its liaison tasks with the local judicial authorities. ***The*** judge ***or judges in question may be designated as*** full ***or ad hoc members*** of the Network.

Amendment 14

Proposal for a decision – amending act
Article 1 – point 1 – point b a (new)
Decision 2001/470/EC
Article 2 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	(ba) The following paragraph 2a shall be inserted:
	"2a. The President of the Court of Justice of the European Communities shall designate the contact point referred to in paragraph 1, point (da).".

Amendment 15

Proposal for a decision – amending act
Article 1 – point 1 – point c a (new)
Decision 2001/470/EC
Article 2 – paragraph 4 a (new)

Text proposed by the Commission	*Amendment*
	(ca) The following paragraph 4a is added:

	"4a. Member States shall designate the professional associations referred to in paragraph 1(e). To that end, they shall obtain the agreement of the associations concerned regarding their participation in the Network."

Amendment 16

Proposal for a decision – amending act
Article 1 – point 2 – point a
Decision 2001/470/EC
Article 3 – paragraph 1 – point b

Text proposed by the Commission	*Amendment*
(a) In paragraph 1, point (b) is replaced by the following:	***deleted***
"(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."	

Amendment 17

Proposal for a decision – amending act
Article 1 – point 2 – point b a (new)
Decision 2001/470/EC
Article 3 – paragraph 2 – point b a (new)

Text proposed by the Commission	*Amendment*
	(ba) The following point (ba) shall be inserted:
	"(ba) the creation by it of an electronic portal for the purpose of accessing the case law in civil and commercial matters of national supreme courts and national district courts of all the Member States with a view to the further development of judicial cooperation within the framework of the Network; the case law in question

shall be translated into the official languages of the European Community;".

Amendment 18

Proposal for a decision – amending act
Article 1 – point 3 – point b – point ii
Decision 2001/470/EC
Article 5 – paragraph 2 – point c a

Text proposed by the Commission	*Amendment*
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***;	*ca)* ***allow*** the public ***to have access to information about*** judicial cooperation in civil and commercial matters in the European Union, relevant Community and international instruments and the domestic law of the Member States, ***in particular through the provision on the Internet sites of the national Ministries of Justice of a link to the site of the European Judicial Network***;

Amendment 19

Proposal for a decision – amending act
Article 1 – point 3 – point b a (new)
Decision 2001/470/EC
Article 5 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	(ba) The following paragraph 2a is added:
	"2a. The professional associations referred to in Article 2(1)(e) shall work with the contact points, in accordance with procedures to be laid down by each Member State, to perform the following tasks and activities assigned to the Network:
	– facilitating judicial cooperation between Member States in civil and commercial matters;
	– facilitating enforcement, to enable Community acts or conventions in force between two or more Member States to be

	effectively applied at the practical level by legal professionals;
	– facilitating access to justice, for instance by helping, whenever necessary, to draw up and update the information sheets referred to in Article 15.
	With a view to accomplishing the above tasks and disseminating their experience as widely as possible, the contact points shall remain regularly in communication with the professional associations.
	To that end, the contact points shall supply them with general information about the implementation of Community acts or international instruments on judicial cooperation in civil and commercial matters, excluding any information relating to an individual case."

Amendment 20

Proposal for a decision – amending act
Article 1 – point 3 – point b – point iii
Decision 2001/470/EC
Article 5 – paragraph 2 – point f

Text proposed by the Commission	*Amendment*
(f) draw up a two-yearly report on their activities and submit it at a meeting of the members of the Network.	(f) draw up a two-yearly report on their activities and submit it at a meeting of the members of the Network. ***This report shall recommend best practices and draw specific attention to deficiencies in the Network.***

Amendment 21

Proposal for a decision – amending act
Article 1 – point 8
Decision 2001/470/EC
Article 12 a – paragraph 1

Text proposed by the Commission	*Amendment*
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.	1. The Network shall maintain relations with the other European networks that share its objectives, in particular the European Judicial Network in criminal matters***, the European Notarial Network*** and the European Judicial Training Network.

Justification

The European Notarial Network is for the time being the first network created by a legal profession. As an example of good practice and with a view to stronger integration of the legal professions in the European Judicial Network, this example should be explicitly mentioned in the text of the decision.

Amendment 22

Proposal for a decision – amending act
Article 1 – point 11
Decision 2001/470/EC
Article 13 a

Text proposed by the Commission	*Amendment*
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***.	The ***information available on the European Judicial Network*** 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.

Amendment 23

Proposal for a decision – amending act
Article 1 – point 13
Decision 2001/470/EC
Article 19

Text proposed by the Commission	*Amendment*
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***.	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 ***European*** Economic and Social Committee a report on the activities of the Network. This report shall be accompanied, if need be, by proposals for ***adaptation and shall specifically relate the Network's activities to progress with the design, development and implementation of European e-justice, particularly from the point of view of facilitating citizens' access to justice***.

PROCEDURE

Title	Establishment of a European Judicial Network in civil and commercial matters
References	COM(2008)0380 – C6-0248/2008 – 2008/0122(COD)
Committee responsible	LIBE
Opinion by Date announced in plenary	JURI 10.7.2008
Drafts(wo)man Date appointed	Diana Wallis 9.9.2008
Date adopted	4.11.2008
Result of final vote	+: 25 –: 0 0: 0
Members present for the final vote	Carlo Casini, Titus Corlăţean, Bert Doorn, Monica Frassoni, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Neena Gill, Othmar Karas, Klaus-Heiner Lehne, Katalin Lévai, Antonio López-Istúriz White, Antonio Masip Hidalgo, Hans-Peter Mayer, Manuel Medina Ortega, Aloyzas Sakalas, Francesco Enrico Speroni, Diana Wallis, Jaroslav Zvěřina, Tadeusz Zwiefka
Substitute(s) present for the final vote	Sharon Bowles, Eva Lichtenberger, Rareş-Lucian Niculescu, Georgios Papastamkos, József Szájer, Jacques Toubon, Renate Weber