

Questionnaire concerning international judicial communication
- Response on behalf of the Central Authority of Finland

QUESTIONS

A. The feasibility and/or desirability of the appointment of a liaison judge or authority

1. Finland has not made a nomination of a judge or another person for that purpose.

The European Judicial Network in civil and commercial matters (Council decision 2001/470/EC, OJ L 174, 27.6.2001, p. 25) which will be established by the end of this year seeks to facilitate judicial cooperation between the Member States of the European Union in civil matters, including international family proceedings. It is being considered in Finland whether a Finnish court should be appointed as one of the contact points for the Network.

2. Procedurally an appointment of a liaison judge is not likely to face insoluble legal or administrative constraints. However, we find that there are some other concerns regarding the feasibility of an appointment of a liaison judge/authority. These concerns relate first of all to the role of a liaison judge. A minor issue is the fact that Finland does not have separate family courts nor judges that are specialised only in family cases.

Bearing in mind that there is a central authority nominated under the 1980 Hague Convention the relation between the tasks of the central authority and the liaison judge/authority should be clearly defined in advance.

We find that establishment of a system of liaison judges who have a general role of participating in international meetings and seminars as well as communicating information to foreign judges would be a fruitful system.

However, the idea of an appointment of a liaison judge to assist in a specific case

is strange to the Finnish judicial system. In our system the administrative tasks as well as logistical issues belong to other authorities than the judge of the case. In addition, agreements between judges on the jurisdiction are alien to civil law systems.

We find that when a need for a cross-border communication arises in a specific case it is essential that the judges dealing with the case in different countries can cooperate directly with each other. The persons who know the details of the case are most likely to find the needed solutions. The Central Authorities can assist in finding the relevant persons dealing with the case.

B. Administrative aspects

1. -
2. See the answers to questions under A.
3. –

C. Practical and legal aspects

1. In cross-frontier family cases communication is mostly practised by way of written requests for judicial assistance (taking of evidence, information on foreign law etc).

In one child abduction case a hearing of witnesses was arranged in the form of a telephone conference between a court in the United States and a court in Finland. The communication between the judges was limited only to the practical details of the hearing. The Central Authority assisted in the arrangements of the hearing.

In family proceedings between the Scandinavian countries consultation concerning the other country's family law has been made by phone and/or email with the help of judges belonging to a Scandinavian family law group (see below D/2).

2. As far as the Ministry of Justice knows there have been no such cases.
3. Naturally the parties of a case should be fully aware of the communications/contacts between judges. The limits of the discussions depend on the subject matter and the purpose of the communication.

In Finland the competence of a court is quite strictly defined by the law and there

is rarely a need for international communications on the conflict of jurisdictions. Agreements between judges are unknown and therefore it is difficult to comment on the safeguards surrounding the communication.

D. General

1. We are in favour of promoting judicial cooperation on an international level but in our opinion the role of a liaison judge should be well defined.
2. There is a group of Scandinavian family law judges which consists of three judges from each country (Norway, Denmark, Sweden and Finland). The group was established three years ago. It has an informal structure and has so far concentrated on providing information on each countries' family law system by way of seminars and study visits.
3. Especially seminars that focus on the different aspects of cross-frontier access cases would be useful. Seminars for the new State Parties to the 1980 Hague Convention would also be important.