

Improving access to justice: legal aid in cross-border civil and commercial disputes

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The Committee on Legal Affairs adopted the own-initiative report by Tadeusz ZWIEFKA (EPP, PL) on improving access to justice: legal aid in cross-border civil and commercial disputes.

Application of Directive 2003/8/EC: Members congratulate the Commission on the submission of its report on the application of Directive 2003/8/EC on improving access to justice in cross-border civil and commercial disputes. They note with satisfaction that all Member States have transposed the directive, even though the interpretation of the scope of the directive on certain points differs among the Member States. They regret that the Commission does not specifically address the European procedures to which the Legal Aid Directive is also applicable, such as the European Small Claims Procedure.

Public awareness: Members regret the fact that relatively few citizens and practitioners seem to be aware of the rights conferred by the directive. They call on the Commission and the Member States to : (i) take measures to **increase awareness of the right to cross-border legal aid** in civil and commercial matters; (ii) launch an effective **information campaign** in order to reach a large number of potential beneficiaries as well as legal practitioners.

Ensuring competent legal support: the report considers that **databases** of legal professionals with the sufficient linguistic and comparative law skills to act in cross-border legal aid cases should be established, thus ensuring that legal professionals are appointed who are able to act in such cases. They suggest that **special training schemes** to provide legal practitioners with cross-border competency would be desirable, with a focus on **language courses and comparative law**. The commission is urge to support specific training for lawyers providing legal aid.

Facilitating the operation of the directive for citizens: in this respect, the report makes the following recommendations:

- it would be advisable to designate a **single authority** with responsibility for cross-border legal aid and with a central office in each Member State for receiving and transmitting legal aid applications;
- applicants should be given the choice of applying for legal aid **in their Member State of residence or in the Member State where the Court is sitting or the decision is being enforced**. Under such arrangements, the authorities of each Member State would then be able to apply their own criteria when deciding on the application;
- any decision of the authorities of the Member State of residence granting legal aid, as evidenced by a **common certificate**, should also have effect in the Member State where the Court is sitting or the decision is being enforced;
- the costs covered by legal aid should also include the costs of, and associated with, any obligatory appearance before a judge or other authority assessing the application. Moreover, particular attention should be paid to the **most vulnerable groups**.

The Commission is invited to submit a **proposal for an amendment of the directive along the above lines**, with a view to establishing common higher standards for cross-border legal

aid.

International aspects of legal aid: the report calls on those Member States that have not yet signed and /or ratified the Hague Convention of 25 October 1980 on International Access to Justice to proceed to do so, as it improves citizens' access to justice outside the European Union.