

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

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The European Parliament adopted a resolution on improving access to justice: legal aid in cross-border civil and commercial disputes.

Parliament congratulates 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. It notes 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. It regrets 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:

take measures to **increase awareness of the right to cross-border legal aid** in civil and commercial matters;

launch an effective **information campaign** in order to reach a large number of potential beneficiaries as well as legal practitioners.

Parliament recommends that the Commission and Member States use a **wide range of communication channels**, including internet-based campaigns and interactive platforms such as the e-Justice Portal, as cost-effective ways to reach citizens.

Ensuring competent legal support: Parliament 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. It suggests 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 called upon to provide **funding** where possible for Member States, to ensure consistent, high-level legal training on cross-border legal aid in civil and commercial matters.

Facilitating the operation of the directive for citizens: stressing the importance of **ensuring that application procedures are simple**, Parliament 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.

Encouraging alternative forms of legal support: the resolution suggests:

- that national courts be connected by an **early-warning system** so that, when an application for assistance is made in one Member State, the other Member States are made aware of it;
- **greater cooperation** between the Commission, Member States and professional legal bodies and organisations such as European and national bars and law societies.

International aspects of legal aid: Parliament 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.