Common minimum standards of civil procedures

2015/2084(INL) - 07/06/2017 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted a report by Emil RADEV (EPP, BG) with recommendations to the Commission on common minimum standards of civil procedure in the EU (Initiative – Rule 46 of the Rules of Procedure).

Area of Freedom, Security and Justice: Members recalled that the Union has set itself the objective of maintaining and developing an area of freedom, security and justice, in which the free movement of persons is ensured. For the gradual establishment of such an area, the Union is to adopt measures relating to **judicial cooperation in civil matters having cross-border implications**, particularly when necessary for the proper functioning of the internal market.

Although the Member States are party to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), experience has shown that that alone **does not always provide a sufficient degree of trust in the civil justice systems of other Member States**. In order to protect the fundamental rights and freedoms of the Union citizens, Members considered it necessary to adopt a directive further developing the minimum standards set out in the Charter and in the ECHR.

Legislative proposal requested: Members called on the Commission, pursuant to Article 225 TFEU, to submit a proposal for a legislative act by 30 June 2018 on the basis of Article 81 (2) of the TFEU, on **common minimum standards of civil procedure**.

The objective of this Directive is to approximate civil procedure systems so as to ensure full respect for the right to a fair trial as recognised in Article 47 of the Charter and in Article 6 of the ECHR, by laying down minimum standards concerning the **commencement, conduct and conclusion of civil proceedings** before Member States' courts or tribunal.

Common minimum standards should lead to **increased confidence** in the civil justice systems of all Member States, which, in turn, should lead to more efficient, faster and more flexible judicial cooperation in a climate of mutual trust.

The Directive shall apply in principle to **disputes having cross-border implications**, in civil and commercial matters and whatever the nature of the court or tribunal.

The minimum standards for civil proceedings shall cover, *inter alia*:

- the general obligation for effective judicial protection: Member States shall provide for the measures, procedures and remedies necessary to ensure the enforcement of the rights conferred by Union civil law;
- the fair conduct of the proceedings: hearings may be conducted using any appropriate distance communication technology, such as videoconferencing or teleconference when the parties can not physically be present;
- the introduction of provisional and protective measures: these measures shall observe the rights of the defence and be proportionate to the characteristics and severity of the alleged violation;
- compliance by the courts with the right to an effective remedy and a fair trial, as well as respect for the principle of an adversarial process, in particular when deciding on the necessity of an oral hearing and on the means of obtaining evidence;
- the obligation for the courts to provide reasoned decisions within a reasonable time in order to enable parties to make effective use if any right to review a decision or lodge an appeal;
-

- due diligence by the courts actively managing the cases before them in order to ensure fair, efficient disposition of disputes at a reasonable speed and cost;
- the availability of means to present, obtain and preserve evidence having regard to the rights of defence and the need to protect confidential information;
- the possibility for courts to grant legal aid to a party;
- the use of service methods to ensure prompt and safe receipt of the served documents;
- the right to a lawyer of their choice for the parties to civil proceedings;
- providing citizens with transparent and easily available information regarding the commencement of various procedures, limitation or prescription periods, the competent courts to hear different disputes, and the necessary forms that need to be filled in for that purpose;
- the availability of interpretation during civil proceedings and a written translation of all essential documents essential to safeguard the fairness of the proceedings;

The proposal shall not have any financial implications on the EU budget.