Common minimum standards of civil procedures

2015/2084(INL) - 04/07/2017 - Text adopted by Parliament, single reading

The European Parliament adopted by 545 votes to 79, with 71 abstentions, a resolution with recommendations to the Commission on common minimum standards of civil procedure in the EU.

Area of Freedom, Security and Justice: the Union's objective is to develop an area of freedom, security and justice, in which the free movement of persons is ensured. It implies adopting 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, Parliament considered it necessary to adopt a directive further developing the minimum standards set out in the Charter and in the ECHR.

Legislative proposal requested: Parliament 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 proposed directive is not aimed at substituting national civil procedure systems in their entirety. Its 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.

Minimum standards: the proposed 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.

Overall, Parliament stressed the need for **legislation to provide for a set of procedural standards applicable to civil proceedings** and called on the Commission to proceed with the delivery of its action plan for the implementation of the Stockholm programme adopted by the European Council in the area of freedom, security and justice.