

Expedited settlement of commercial disputes

2018/2079(INL) - 13/12/2018 - Text adopted by Parliament, single reading

The European Parliament adopted by 521 votes to 35, with 14 abstentions, a resolution with recommendations to the Commission on the expedited settlement of commercial disputes.

Members noted that the settlement of commercial matters could be much faster than it is at present (on average three or four years). They contended that the adoption of a regulation similar to the European small claims procedure (ESCP), the European Expedited Civil Procedure (EECP) applicable to cross-border commercial disputes would be the best way to address the long waiting times for commercial disputes in the Union, possibly making great savings for European businesses and mobilising unused capital.

The Commission is invited to **submit, by 1 January 2020, a proposal for a legislative act** under Article 81(2) of the Treaty on a European Small Claims Procedure and a possible proposal to amend the [Rome I](#) and [Rome II](#) Regulations and the [Brussels Ia Regulation](#).

Parliament recommended introducing a voluntary European Expedited Civil Procedure (EECP) in order to provide European companies a possibility to reach a settlement of purely commercial business-to-business disputes of a cross-border nature within a reasonable time frame.

The procedure should be introduced on a **voluntary basis** and be based on the following principles:

- apply to cross-border commercial disputes to which the European Small Claims Procedure does not apply;
- apply if the parties so agree after the dispute arises or if the claimant launches a claim under the procedure and the defendant accepts it;
- apply only if the parties have been duly informed in advance of the consequences of consenting to use this procedure;
- require the parties to prepare their claims to a high degree before going to court;
- paired with early preclusion of the possibility to raise new facts or new evidence in court;
- not allow separate appeal against procedural decisions;
- in principle be a written procedure, allowing for oral hearings where at least one of the parties so request;
- as a starting point, apply very short deadlines to the procedure, allowing the court, in agreement with the parties, to apply longer deadlines in cases of higher complexity;
- encourage in- and out-of-court amicable settlement of cross-border commercial disputes, including by way of mediation;
- encourage the use of modern technologies for the purpose of oral hearings, taking of evidence and service of documents.

Moreover, the costs of the EECPP should not be excessive for the parties, in order to guarantee the respect of the right of access to justice.

The proposal on European Expedited Civil Procedure could be supported by a proposal to amend the Rome I and Rome II and Brussels Ia Regulations to achieve a stronger connection between the purpose and aim of agreements and the law chosen within the Union also to afford the parties to purely commercial contracts further autonomy while ensuring the protection of the weaker parties in business-to-business relations.

These legislative measures cannot address these issues alone, practical measures to raise the expertise both of courts and of lawyers are also necessary, such as improved training in commercial matters and better access to Union law and the national law of the Member States, in particular case law.