Resolution on the legal professions and the general interest in the functioning of legal systems

2006/2534(RSP) - 23/03/2006 - Text adopted by Parliament, topical subjects

The European Parliament adopted a resolution on the legal professions and the general interest in the functioning of legal systems. It recognised fully the crucial role played by the legal professions in a democratic society to guarantee respect for fundamental rights, the rule of law and security in the application of the law, both when lawyers represent and defend clients in court and when they are giving their clients legal advice. Parliament noted the high qualifications required for access to the legal professions, the need to protect those qualifications that characterise the legal professions, and the need to establish a specific relationship based on trust between members of the legal professions and their clients. It reaffirmed the importance of rules to ensure the independence and responsibility of members of the legal professions, and welcomed the Commission's recognition that reforms are best carried out at national level and that the authorities of the Member States are in the best position to define the rules that apply to legal professions.

Each type of activity of a professional body must be looked at separately, so that the rules on competition are applied to the association only when it is acting exclusively in the interests of its members and not when it is acting in the general interest. Unregulated price competition between legal professionals leads to a reduction in the quality of the service provided operates to the detriment of consumers. Parliament reminded the Commission that the aims of the rules governing legal services are the protection of the general public, the guaranteeing of the right of defence and access to justice, and security in the application of the law. For these reasons they cannot be tailored to the degree of sophistication of the client. It encouraged professional bodies to establish codes of conduct at European level, including rules relating to organisational matters, qualifications, professional ethics, supervision, liability and communications, in order to ensure that the ultimate consumers of legal services are provided with the necessary guarantees in relation to integrity and experience. The Commission was invited to take account of the specific role of the legal professions in a society governed by the rule of law, and to carry out a thorough analysis of how markets in legal services operate when the Commission promotes a "less regulation, better regulation" principle. Parliament also invited the Commission to apply the competition rules, where applicable, in compliance with the case-law of the Court of Justice.

It considered that the public interests overriding EU competition principles are to be found in the legal system of the Member State, and that there is no such thing as an EU public-interest test, however defined. The Commission should not to apply EU competition law to matters which, under the EU constitutional framework, are left to the jurisdiction of the Member States, such as access to justice, which includes issues such as the fee schedules to be applied by courts to liquidate lawyers" fees.