Access to justice, cross-border disputes: legal aid, financial aspects of civil proceedings

2002/0020(CNS) - 27/01/2003 - Final act

PURPOSE : to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid in such disputes. COMMUNITY MEASURE : Council Directive 2003/8/EC to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes. CONTENT : the Council adopted the Directive to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes. This Directive seeks to promote the application of legal aid in cross-border disputes for persons who lack sufficient resources where aid is necessary to secure effective access to justice. Accordingly, all the persons involved in a civil or commercial dispute within the scope of this Directive must be able to assert their rights in the courts even if their personal financial situation makes it impossible for them to bear the costs of proceedings. Legal aid is regarded as appropriate when it allows the recipient effective access to justice under the conditions laid down in this Directive. Legal aid should cover pre-litigation advice with a view to reaching a settlement prior to bringing legal proceedings, legal assistance in bringing a case before a court and representation in court and assistance with or exemption from the cost of the proceedings. Concerning the continuity of legal aid, it shall continue to be granted totally or partially to recipients to cover expenses incurred in having judgement enforcement in the Member State where the court is sitting. Legal aid applications shall be completed in, and supporting document translated into the official language of the Member State of the competent authorities which corresponds to one of the languages of the Community institutions or another language which the Member States has indicated it can accept. The competent transmitting authority shall transmit the application to the competent receiving authorities in the other Member State within 15 days of the receipt of the application duly completed in one of the languages mentioned above. To facilitate transmission, a standard form for legal aid applications and for the transmission of such applications shall be established. This standard form for the transmission of legal aid application shall be established at the latest by 30 May 2003. The standard form for legal aid application applications shall be established at the latest by 30 November 2004. The competent authorities shall cooperate to provide the general public and professional circles with information on the various systems of legal aid, in particular via the European Judicial Network, established in accordance with Decision 2001/470/EC. ENTRY INTO FORCE : 31 January 2003. TRANSPOSITION : Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 30 November 2004 with the exception of Article concerning pre-litigation advice with a view to reaching a settlement prior to bringing legal proceedings where the transposition of this Directive into national law shall take place no later than 30 May 2006. Theyshall forthwith inform the Commission thereof. TERRITORIAL APPLICATION : It should be noted that the United Kingdom and Ireland have given notice of their wish to take part in the adoption and the application of this Directive. Denmark is not taking part in the adoption of this Directive and it not bound by it or subject to its application.