European Commission

Council Directive 2003/8/EC to improve access to justice in cross-border disputes

DG Justice

Unit A.1 Civil Justice Policy

Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

Scope

On 27 January 2003, the Council adopted a Directive to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

The provisions of this Directive apply to "cross-border" civil cases, in other words where the person requesting legal aid does not live in the Member State where the case will be heard or where the decision is to be enforced.

Principle

The Directive establishes the principle that persons who do not have sufficient resources to defend their rights are entitled to receive appropriate legal aid.

The Directive lays down the services that must be provided for the legal aid to be considered appropriate, such as:

- access to pre-litigation advice
- legal assistance and representation in court

Conditions

The Directive also specifies possible conditions relating to the applicant's financial resources.

Member States may specify thresholds above which applicants are deemed to be able to bear the costs of proceedings.

However, a competent authority should take into account applicant’s income, capital and family situation. Also, differences in the cost of living between Member State of domicile and the forum should be taken into account.

Costs covered

Legal aid should include costs related to the cross-border nature of the dispute:

- Interpretation
- Translation of documents
- Travel costs

Judicial cooperation mechanisms

The Directive also puts in place certain mechanisms for judicial cooperation between Member States' authorities designed to facilitate the transmission and processing of legal aid applications.

In particular, the Directive provides for the possibility to submit applications in the country of residence of applicants, which must then transmit it, rapidly and free of charge, to the authorities of the country which is to grant the aid.