

Finnish EU Presidency calls for Streamlining of Instruments in the Field of Civil Procedural Law

The Finnish EU Presidency has published a document from their Informal JHA Ministerial Meeting on 20-22 September 2006. Their concern is “**Facilitating access to justice and better regulation in civil justice.**” At present, the Presidency argues, there is a lack of coherence caused by differences in the substance of those instruments that regulate civil procedure. They give an example:

Let us assume that someone would like to recover a debt of 2,000 Euros in another Member State with the expectation that the claim will not be contested. The claimant may choose between the European Enforcement Order, the Payment Order, the Small Claims instrument, and the Brussels I Regulation. The procedure that has to be followed will differ depending on his or her choice. From the point of view of the claimant, it would surely be better if there was only one single application form for starting a recovery procedure in another Member State. De facto, approximately the same basic information is needed for the commencement of each procedure: the parties, the amount of the claim, the reasons for the claim, etc. It is only when we know the reaction of the defendant that we are in a position to decide which type of procedure should be used to continue. It may also be noted that the methods in the service of documents differ according to which instrument is selected. Why should we accept differences in this regard?

The Presidency goes on to state their vision for an improved regime:

The Finnish Presidency is of the view that it is time to consider streamlining existing instruments in the field of civil procedural law. This work should be based on minimum standards and the aim should be to ensure the consistency and user-friendliness of the relevant provisions. Reducing the number of instruments and integrating different approaches would help practitioners and citizens in applying this legislation and thus enhance access to justice. Such benefits would clearly justify the effort that would have to be invested in

negotiations aiming at streamlining the already existing substantive provisions.

The Presidency then poses two questions for discussion:

1. Do the Ministers ***agree with the conclusion that there is a lack of coherence and consistency in the instruments already adopted in the field of civil procedural law?*** Could the ***extent of fragmentation of the Community legislation be lessened*** and the ***degree of user-friendliness be improved*** by taking a ***more systematic overview*** of the cooperation in civil law?
2. Do the Ministers ***agree on the advisability of streamlining the instruments on cross-border litigation in the EU into one single instrument based on consistent/common minimum standards?*** Should this instrument consist of, in particular, rules covering the provisions on jurisdiction, the service of documents, the taking of evidence, the use of languages and translations, legal aid, special rules on payment and small claims procedures, and in addition, rules covering recognition and enforcement of different types of judgments?

The document can be found in full here. What do you think about the Presidency's conclusions? Comments very welcome.