

Expedited settlement of commercial disputes

The value of cross-border civil litigation is estimated at €7.7 billion annually. However, enforcing cross-border commercial contracts in national courts is cumbersome due to often protracted civil proceedings and divergences in national procedural rules. The Legal Affairs Committee suggests to remedy this by creating a European expedited civil procedure, and possibly even establishing a European commercial court. The committee's legislative-initiative report is due to be debated during the December plenary session.

Background

The number of cross-border civil cases in Europe [may range](#) from 83 000 to as many as 116 000 per year, and the total overall cost of such litigation is [estimated](#) at €7.7 billion annually. However, the divergence of civil procedure rules in the Member States generates elevated costs for businesses, and according to the [2018 EU Justice Scoreboard](#), in most Member States it takes more than 100 days to obtain a first-instance judgment in civil proceedings, and in five of them it takes more than 300 days. Hence, enforcing a commercial contract through judicial proceedings before civil courts can be cumbersome and inefficient.

EU mandate to remedy the existing situation

The EU legislature enjoys a mandate to remedy this under [Article 81](#) of the Treaty on the Functioning of the European Union, which allows the Parliament and Council, upon a proposal from the Commission, to adopt measures aimed at ensuring effective access to justice and the elimination of obstacles to the proper functioning of civil proceedings, especially if this is necessary for the internal market to function effectively. Up to now, the EU has created a number of optional cross-border civil procedures (which do not replace national ones, but can be used upon the initiative of the litigants), including the [European Small Claims Procedure](#), [European Order for Payment Procedure](#), [European Enforcement Order](#) and the [European Account Preservation Order](#) for freezing debtors' assets in bank accounts.

Report of the Legal Affairs Committee

On 20 November, the JURI committee unanimously adopted, under [Rule 46](#), a [report](#) with recommendations to the Commission on expedited settlement of commercial disputes. The report invites the latter to table a proposal to create a new EU optional civil procedure – the European expedited civil procedure (EECP) for cross-border litigation between businesses. JURI argues that the EECP could allow cutting down costs and speed up the resolution of business-to-business disputes. The EECP could feature tight, pre-determined deadlines, there would be no separate appeal on procedural questions, and the possibility of raising new circumstances once the procedure kicks off would be limited. The procedure would be voluntary and would require agreement from both parties to the dispute, in contrast to existing ones which are triggered at the claimant's initiative, but in line with arbitration procedures which also require both parties' consent. JURI considers that such an expedited procedure would allow the solving of commercial disputes in 6 to 12 months. For the EECP to be efficient, Member States would have to ensure that experienced judges (e.g. on commercial courts) decide cases. Furthermore, the Commission could study the possibility of establishing a European commercial court, to supplement the courts of Member States and offer litigants an additional, international forum specialised in the settlement of commercial disputes. An absolute majority in plenary is required for the request to be formally submitted to the Commission.

First-reading report: [2018/2079\(INL\)](#); Committee responsible: JURI; Rapporteur: Tadeusz Zwiefka (EPP, Poland). See also EPRS's European added value assessment prepared for the JURI committee, '[Expedited settlement of commercial disputes in the European Union](#)', November 2018.

