

Civil Judicial Cooperation

Introduction

1. The Liberal Democrat Home Affairs, Justice and Equalities Parliamentary Party Committee is the primary forum for MPs, Peers and Liberal Democrat stakeholders involved in Home Affairs, Justice and Equalities issues to exchange information and ideas. The views expressed here are those of individual members and the committee as a collective, but are not necessarily currently formal Liberal Democrat policy. We have decided to respond to the general principles and questions raised in the call for evidence rather than each question individually. Any oversight reflects only our decision to structure our response under main headlines rather than responding to each question separately.
2. The increasing business and personal links that the UK and its citizens have made across the channel have highlighted the need for civil judicial cooperation to make the internal market a reality. We should be doing everything possible to make cross-border civil judicial cooperation easy, accessible and conciliatory where possible. The Judicial and Home Affairs opt-out has dominated discussions recently; however, it is arguable that it is our cooperation with other EU Member States in civil matters which has a greater effect on the day to day life of British citizens.

Dispelling Myths

3. The UK has been able to use its significant trade with other Member States (the value of UK goods and services exported to the EU in 2011 alone stood at £234bn) as leverage to ensure that directives passed by the Commission in this area broadly reflect British interests. A clear example of this is the Rome I Directive, which at first the UK did not opt-in to. The UK did eventually opt to join in 2009 after it had successfully negotiated a change to bring it in line with the UK's position. This discredits the opinion that in the EU we can be shouted down, particularly in areas of law where the British system significantly differs from the system most of Europe employs.
4. The breadth of involvement the EU has in matters of civil judicial cooperation is considerable. The debate in Britain has been focused on whether we remain within the Union or leave. However, it is very unlikely that if we do decide to leave that we will completely cut ourselves off from mainland Europe. The majority of us will continue to shop online using businesses based in other parts of Europe, take our holidays inside the EU and start relationships with likeminded Europeans. In all of

these cases when something goes wrong the fact that we are part of the Union allows us to find simple, fast and effective remedies using the shared rules and instruments already available.

5. The human effect of having EU-level rules should also be kept in mind. EU-wide rules put in place to aid cross-border litigation increase trust levels amongst those needing to access the necessary tools. Similar rules and standards also prevent individuals and businesses alike from being discouraged in accessing their rights when they have been wronged.
6. If such a framework did not exist it would be left to national law and bilateral agreements, where possible, to manage the conflicts between different rules. This would mean cases would be subject to delays and complications matched with increased costs.
7. We believe that the solution to the problem of different laws operating in an internal market has been hugely effective and should not be radically altered. Mutual recognition, the principle that allows for one state's law to hold in another state where there is no corresponding law speeds up the process considerably and works in Britain's favour given our common law system. In fact, in other areas such as employment the UK has pushed for more mutual recognition calling for qualifications gained in one Member State to be accepted more easily in another Member State.
8. The other freedoms – most obviously the freedom of movement - has meant that EU citizens have travelled, studied and worked across the Union often settling down and starting a new chapter in their lives. It is estimated that there are 16 million international couples living in the European Union today. Should marriages and relationships break down, particularly when children are involved, the fact that there are EU-wide instruments help to make a difficult time a little more bearable.
9. Legal difficulties surrounding relationship breakdown can include which courts have jurisdiction to hear a divorce application, and under which law as well as access to children. The trust and recognition between national courts is of paramount importance if their decisions are to be respected and upheld. This is beneficial for

the UK as it means rulings determined here will hold in another Member State's national Courts.

10. These grand principles can be translated into practice, and have an impact on day to day exchanges between the UK and the mainland. For example, building on the principles explored above is the Small Claims procedure. This enables creditors to seek judgments on claims below €2000 across borders in an efficient manner. Along with other tools, such as the European Enforcement Order and payments procedure, this helps to keep British businesses protected whilst they expand and develop moving into the mainland.

Opt-in/Opt-out

11. The negotiated system currently in place means that the UK has to opt-in to any new protocols in this area. This can be arduous and time-consuming. However, we recognise that this is unlikely to be reversed given the current political climate and therefore would support the status quo.
12. Whilst others have advocated the approach Denmark has taken (automatic opt out for all measures) we believe that this is a longwinded process which does not deliver results and leaves the Danes only able to accept a measure negotiated and agreed by other member states as opposed to being at the table when it is negotiated. In fact, the Government of Denmark have often decided to opt into civil justice measures which have meant signing international agreements – a protracted process which the UK does not currently need to go through.

Conclusions

13. The internal market, undoubtedly a great success would not be possible without civil judicial cooperation. It allows the internal market to function smoothly and for consumers and businesses alike to have confidence in its operation. It enables us to benefit from a wider market whilst reducing our fear and to seek resolution and remedy where there has been foul play.