

Simplified court proceedings for straightforward civil cases

In January 2006, the Social and Economic Council's Committee for Consumer Affairs (CCA) published an advisory report on a small claims procedure at European level (http://www.ser.nl/default.asp?desc=2006_41). Because the procedure can only be used in cross-border disputes, the CCA argued in its report that Dutch consumers should be given easier access to the national courts in domestic cases, and as soon as possible. The Committee explained its position in greater detail in an advisory report published in March 2007.

Based on a report by the Ministry of Justice setting out proposals for a simplified procedure for straightforward civil court cases, the CCA has made the following recommendations in its report:

1. See that the simplified procedure can be used for disputes between consumers and businesses, between businesses, and between private parties.
2. It should be up to the plaintiff to select either the simplified procedure or the existing, normal procedure. If the Sub-district Court finds the case too complex, the plaintiff must follow the normal procedure.
3. Increase the competence of the Sub-district Court to allow it to hear cases involving sums of up to EUR 25,000 (instead of EUR 5,000, as is now the case).
4. The proceedings should be initiated electronically; that is much quicker and eliminates any bailiff's fees.
5.
 - a) The CCA's consumer and independent members would like to make the simplified procedure available for all claims of up to EUR 25,000.
 - b) The CCA's business members would like to make the simplified procedure available only for claims of up to EUR 5,000, unless both parties in the proceedings wish to follow the simplified procedure for a claim above that amount.
6.
 - a) The "floor" for the CCA's consumer and independent members is EUR 5,000; under that amount, expensive forms of evidence should be avoided and a hearing should be permitted only if both parties wish it and the Sub-district Court finds it necessary.
 - b) The "floor" for the CCA's business members is EUR 2,000. For claims under that amount, only the minimum basic procedural guarantees would apply; for claims of between EUR 2,000 and EUR 5,000, the guarantees should be more far-reaching and the Sub-district Court should play a more active role.
7. Care should be taken to prevent abuse of the simplified procedure. One suggestion is to use the court fees to do so; another is to give the Sub-district Court the authority to dismiss trumped-up claims.
8. The Sub-district Court must present its decision within six months.