

European Small Claims Procedure

2005/0020(COD) - 11/07/2007 - Final act

PURPOSE: to establish a European Small Claims Procedure.

LEGISLATIVE ACT: Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure.

CONTENT: the Regulation establishes a European procedure for small claims, intended to simplify and speed up litigation concerning small claims in cross-border cases, and to reduce costs. The European Small Claims Procedure will be available to litigants as an alternative to the procedures existing under the laws of the Member States. The Regulation also eliminates the intermediate proceedings necessary to enable recognition and enforcement, in other Member States, of judgments given in one Member State in the European Small Claims Procedure.

Scope: the Regulation applies, in cross-border cases, to civil and commercial matters, whatever the nature of the court or tribunal, where the value of a claim does not exceed **EUR 2000** at the time when the claim form is received by the court or tribunal with jurisdiction, excluding all interest, expenses and disbursements. It will not extend to revenue, customs or administrative matters or to the liability of the State for acts and omissions in the exercise of State authority (*acta jure imperii*). It will not apply to certain areas, including the status or legal capacity of natural persons, and rights in property arising out of a matrimonial relationship.

In order to reduce costs and delays, the European Small Claims Procedure provides for several procedural simplifications, introducing standard forms to be used by the parties and the court and establishing time limits for the parties and for the court in order to simplify and speed up litigation concerning small claims.

The procedure will be a **written procedure**, unless an oral hearing is considered necessary by the court. The court may hold a hearing or take evidence through a video conference or other communications technology if the technical means are available.

Moreover, the parties will not be required to be represented by a lawyer or another legal professional and the court shall determine the means of taking evidence and the extent of the evidence necessary for its judgment under the rules applicable to the admissibility of evidence. It may admit the taking of evidence through written statements of witnesses, experts or parties.

The unsuccessful party will bear the costs of the proceedings. However, the court will not award costs to the successful party to the extent that they were unnecessarily incurred or disproportionate to the claim.

The judgment shall be enforceable notwithstanding any possible appeal. The provision of a security will not be required. Member States will inform the Commission whether an appeal is available under their procedural law against a judgment given in the European Small Claims Procedure and within what time limit such appeal will be lodged, and the Commission will make that information publicly available.

The Regulation abolishes the intermediate measures to enable the recognition and enforcement of a judgement given in a European Small Claims Procedure. A judgment shall be recognised and enforced in another Member State automatically and without any possibility of opposing its recognition.

Review: by 1 January 2014, the Commission will present a detailed report reviewing the operation of the European Small Claims Procedure, including the EUR 2000 limit. That report shall contain an assessment

of the procedure as it has operated and an extended impact assessment for each Member State. To that end and in order to ensure that best practice in the European Union is duly taken into account, Member States must provide the Commission with information relating to the cross-border operation of the European Small Claims Procedure. This information will cover court fees, speed of the procedure, efficiency, ease of use and the internal small claims procedures of the Member States. The Commission's report will be accompanied, if appropriate, by proposals for adaptation.

The text of the Regulation is accompanied by four annexes, containing the standard forms to be used by the parties and the court in the procedure.

ENTRY INTO FORCE: the Regulation shall apply from 1 January 2009, with the exception of Article 25 (Information relating to jurisdiction, means of communication and appeals to be provided by Member States) which shall apply from 1 January 2008.