

European Small Claims Procedure

2005/0020(COD) - 14/12/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Hans-Peter **MAYER** (EPPE-ED, D), and backed the creation of a European Small Claims Procedure to speed up litigation in cross-border cases. The new procedure would concern claims up to EUR 2000 and be enforceable in all Member States. It made several amendments to the initial proposal.

A notable change is that the procedure should apply only to cross-border cases, rather than be available also for claims within individual Member States as originally proposed by the Commission. This amendment reflects discussions with the Council on what would be acceptable to Member States.

Accordingly, the Regulation will apply, in cross-border cases, where the value of a claim does not exceed EUR 2 000 at the time when the claim is received by the competent court or tribunal, excluding all interest, expenses and outlays. It shall not apply, in particular, to revenue, customs or administrative matters or the liability of the State for acts and omissions in the exercise of state authority ("acta iure imperii"). The Regulation will not apply, inter alia, to maintenance obligations; tenancies of immovable property, except actions on monetary claims; violations of privacy and rights relating to personality, including defamation.

The ESCP will be a written procedure. The Regulation provides for a specific form, available in all EU official languages, to be used to submit a claim under the ESCP. It would also facilitate the recognition and the enforcement of an ESCP judgment in all Member States by eliminating any intermediate measures required by a Member State to enforce the decision. The claim form will include a description of evidence supporting the claim and be accompanied, where appropriate, by any relevant supporting documents. The claim form, the response, any counterclaim, any response to a counterclaim and any description of relevant supporting documents shall be submitted in the language of the court or tribunal. If any other document received by the court or tribunal is in a language other than the language in which the procedure is conducted, the court or tribunal may require a translation of that document only if the translation appears to be necessary for rendering the judgment. The Member States shall ensure that the parties can receive practical assistance in completing the forms.

Amendments made to the clauses concerning the conduct of the procedure affect the time-limits applicable. The court or tribunal must render the judgment within 30 days of any hearing or after having received all information necessary for delivering the judgment. The court may hold a hearing through a video conference or other communications technology if the technical means are available.

Parliament substantially amended the enforcement procedure, the refusal of enforcement and stay of enforcement. The enforcement procedures will be governed by the law of the Member State of enforcement. A judgment delivered in a European Small Claims Procedure will be enforced under the same conditions as a judgment handed down in the Member State of enforcement. Under no circumstances may the judgment be reviewed as to its substance in the Member State of enforcement.

By 1 January 2014, the Commission must present a detailed report reviewing the operation of the European Small Claims Procedure, including on the limit of the value of the claim. That report must contain an assessment of the procedure as it has operated and an extended impact assessment for each Member State. To this end and in order to ensure that best practice in the European Union is duly taken into account and reflects the principles of better legislation, Member States must provide the

Commission with information relating to the cross-border operation of the European Small Claims Procedure. This information should cover court fees, speed of the procedure, efficiency, ease of use and the internal small claims procedures of the Member States.