

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2005/0020(COD) Procedure completed
European Small Claims Procedure Amended by 2013/0403(COD)	
Subject 7.40.02 Judicial cooperation in civil and commercial matters	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs		21/04/2005
		PPE-DE MAYER Hans-Peter	
	Committee for opinion	Rapporteur for opinion	Appointed
	LIBE Civil Liberties, Justice and Home Affairs		06/06/2005
		ALDE PICKART ALVARO Alexander Nuno	
Council of the European Union	Council configuration	Meeting	Date
	Justice and Home Affairs (JHA)	2807	12/06/2007
	Justice and Home Affairs (JHA)	2752	05/10/2006
	Justice and Home Affairs (JHA)	2732	01/06/2006
	Justice and Home Affairs (JHA)	2696	01/12/2005
European Commission	Commission DG	Commissioner	
	Justice and Consumers	FRATTINI Franco	

Key events			
14/03/2005	Legislative proposal published	COM(2005)0087	Summary
12/04/2005	Committee referral announced in Parliament, 1st reading		
01/12/2005	Debate in Council	2696	Summary
01/06/2006	Debate in Council	2732	Summary
24/10/2006	Vote in committee, 1st reading		
07/11/2006	Committee report tabled for plenary, 1st reading	A6-0387/2006	
14/12/2006	Results of vote in Parliament		
14/12/2006	Decision by Parliament, 1st reading	T6-0593/2006	Summary
12/06/2007	Act adopted by Council after Parliament's 1st reading		
11/07/2007	Final act signed		

11/07/2007	End of procedure in Parliament		
31/07/2007	Final act published in Official Journal		

Technical information

Procedure reference	2005/0020(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amended by 2013/0403(COD)
Legal basis	EC Treaty (after Amsterdam) EC 061
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/27155

Documentation gateway

Legislative proposal		COM(2005)0087	15/03/2005	EC	Summary
Document attached to the procedure		SEC(2005)0351	15/03/2005	EC	
Document attached to the procedure		SEC(2005)0352	15/03/2005	EC	
Committee draft report		PE368.105	08/02/2006	EP	
Amendments tabled in committee		PE371.891	30/03/2006	EP	
Committee opinion	LIBE	PE368.019	19/05/2006	EP	
Amendments tabled in committee		PE378.896	11/10/2006	EP	
Committee report tabled for plenary, 1st reading/single reading		A6-0387/2006	07/11/2006	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0593/2006	14/12/2006	EP	Summary
Commission response to text adopted in plenary		SP(2007)0303	24/01/2007	EC	
Draft final act		03604/2007/LEX	11/07/2007	CSL	
Follow-up document		COM(2013)0795	19/11/2013	EC	Summary

Additional information

European Commission	EUR-Lex
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Final act

[Regulation 2007/861](#)
[OJ L 199 31.07.2007, p. 0001](#) Summary

[Corrigendum to final act 32007R0861R\(01\)](#)
[OJ L 141 05.06.2015, p. 0118](#)

Final legislative act with provisions for delegated acts

Delegated acts

European Small Claims Procedure

PURPOSE: the establishment of a European Small Claims Procedure.

PROPOSED LEGISLATIVE ACT: Regulation of the European Parliament and of the Council.

CONTENT: The aim of the proposal is to simplify, speed up and reduce the costs of litigation concerning small claims by establishing a European Small Claims Procedure to be available to litigants as an alternative to the procedures existing under the laws of the Member States which will remain unaffected.

The new procedure will apply in civil and commercial matters where the total value of a monetary or non-monetary claim does not exceed EUR 2.000.

In order to reduce costs and delays, the European Small Claims Procedure provides for several procedural simplifications. Documents shall be served on the parties by registered letter with acknowledgment of receipt (or by any simpler means such as simple letter, fax or email). The procedure shall be a written procedure, unless an oral hearing is considered necessary by the court. The court may hold a hearing through an audio, video or email conference. The parties shall not be obliged to be represented by a lawyer. The court may determine the means of proof and the extent of the taking of evidence according to its discretion. The court may admit the taking of evidence through telephone, written statements of witnesses, and an audio, video or email conference. The judgment shall be immediately enforceable notwithstanding any possible appeal and without the condition of the provision of a security.

Furthermore, the proposal will remove the intermediate measures which are still required to enable recognition and enforcement of a judgment. A judgment given in the European Small Claims Procedure will be recognised and enforceable in another Member State without the need for a declaration of enforceability and without any possibility of opposing its recognition.

European Small Claims Procedure

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.

European Small Claims Procedure

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.

European Small Claims Procedure

The Commission presents a report on the application of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure.

Purpose of the report: Regulation (EC) No 861/2007 establishing a European Small Claims Procedure has been applied since January 2009 in all Member States except Denmark. Article 28 requires the Commission to present by the 1 January 2014 a report reviewing the operation of the Regulation.

This report is based on:

- an external study,
- an on-line public consultation,
- replies to a questionnaire addressed to Member States,
- discussions in the European Judicial Network in Civil and Commercial Matters ("EJN") in 2011 and 2013, and
- input from consumers and the general public.

To recall, the main features of this procedure are its written character, strict time limits for the conduct of the proceedings, the absence of a requirement of legal representation, the use of electronic communication, the use of standardised forms for procedural acts, and the abolition of the intermediary procedure for declaration of enforceability of the judgment ("*exequatur*").

Implementation: in general, the procedure is considered to have facilitated cross-border litigation for small claims in the EU. It has reduced the costs of litigating cross-border small claims up to 40% and the duration of litigation from up to 2 years and 5 months to an average duration of 5 months.

In comparison to national simplified procedures, the European Procedure has been found to be less costly as it is simpler than national procedures. Most national procedures only remove the need for legal representation in small value disputes before lower courts.

However, the use of the European Small Claims Procedure is still rather limited compared to the number of potential cases. In this respect, the number of applications differs greatly between Member States, ranging between just 3 applications in Bulgaria to 1047 applications in Spain for 2012. Apart from factors like the shopping habits of the population and the availability or costs of alternative national procedures, this difference in the up-take of the European Procedure seems to be linked in particular with the awareness of its existence and operation.

This conclusion is supported by the fact that the number of applications under the Regulation has constantly increased since its entry into application in 2009.

[Eurobarometer 395 survey](#) shows that two-thirds of those who used the procedure are overall satisfied with it. 13% of respondents was dissatisfied, 17 % reported that the court was not knowledgeable about the procedure, 16 % had difficulties in filling in the forms and 10 % sought assistance in filling in the application form but did not receive it.

Main conclusions: the report shows that the application of the Regulation has generally improved, simplified and accelerated the handling of small claims in cross-border disputes. Nevertheless, there are some shortcomings. The Regulation suffers from a lack of public awareness. This issue is addressed by a number of measures undertaken by the Commission described in the report.

The report also notes that in some instances, the Regulation was not properly implemented. The Commission states that this may be remedied by clarifying some of the provisions which have given rise to difficulties. This is the case, for example, with the lack of transparency on certain information regarding court fees, methods of payment and the availability of assistance in filling in the forms.

The remaining problems are mainly due to deficiencies of the current Regulation, for example :

- the limited scope in terms of the threshold and the limited definition of cross-border cases;
- the procedural shortcomings relating to the priority given to postal service;
- the low use of video- distance means of communication;
- the disproportionality of court fees in some instances;
- the lack of on-line methods of payment in some Member States, and;
- the unnecessary translation costs at the enforcement stage.

The report is therefore accompanied by [a proposal for revision of the current Regulation](#) and an [impact assessment](#) addressing the problems identified above.