

# Procedure file

Basic information	
INI - Own-initiative procedure	2007/2026(INI)
Efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts. Green Paper	
Subject	
2.50.04 Banks and credit	
7.40.02 Judicial cooperation in civil and commercial matters	
Procedure completed	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>JURI</b> Legal Affairs		20/12/2006
		PPE-DE <a href="#">LECHNER Kurt</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>ECON</b> Economic and Monetary Affairs		24/01/2007
		ALDE <a href="#">BOWLES Sharon</a>	
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs		20/03/2007
		PPE-DE <a href="#">DEMETRIOU Panayiotis</a>	
European Commission	Commission DG	Commissioner	
	<a href="#">Justice and Consumers</a>	FRATTINI Franco	

Key events			
24/10/2006	Non-legislative basic document published	<a href="#">COM(2006)0618</a>	Summary
15/02/2007	Committee referral announced in Parliament		
04/10/2007	Vote in committee		Summary
09/10/2007	Committee report tabled for plenary	<a href="#">A6-0371/2007</a>	
24/10/2007	Debate in Parliament		
25/10/2007	Results of vote in Parliament		
25/10/2007	Decision by Parliament	<a href="#">T6-0486/2007</a>	Summary
25/10/2007	End of procedure in Parliament		

Technical information

Procedure reference	2007/2026(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Strategic initiative
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/45747

### Documentation gateway

Non-legislative basic document		<a href="#">COM(2006)0618</a>	24/10/2006	EC	Summary
Committee draft report		<a href="#">PE390.569</a>	08/06/2007	EP	
Committee opinion	<b>ECON</b>	<a href="#">PE388.424</a>	27/06/2007	EP	
Amendments tabled in committee		<a href="#">PE392.178</a>	19/07/2007	EP	
Committee opinion	<b>LIBE</b>	<a href="#">PE388.581</a>	20/07/2007	EP	
Committee report tabled for plenary, single reading		<a href="#">A6-0371/2007</a>	09/10/2007	EP	
Text adopted by Parliament, single reading		<a href="#">T6-0486/2007</a>	25/10/2007	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2007)6028</a>	21/11/2007	EC	
Commission response to text adopted in plenary		<a href="#">SP(2007)6302</a>	20/12/2007	EC	

## Efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts. Green Paper

**PURPOSE:** to launch a broad consultation among interested parties on how to improve the enforcement of monetary claims in Europe.

**BACKGROUND:** in the Treaty of Amsterdam, the European Union set itself the goal of gradually creating an area of freedom, security and justice. In the field of civil justice, Article 65 of the EC-Treaty envisages amongst other things the taking of measures to improve and simplify the recognition and enforcement of judgments in civil and commercial cases. More recently, the Hague Programme strengthening freedom, security and justice in the European Union, which was adopted by the Heads of Government in December 2004, made the continued implementation of the programme of measures on mutual recognition a main priority, emphasizing that the effectiveness of the existing instruments on mutual recognition of decisions in civil and commercial matters has to be strengthened by work in the area of the enforcement of judgments.

Enforcement law has often been termed the 'Achilles' heel' of the European Civil Judicial Area. While a number of Community instruments provide for the jurisdiction of the courts, the procedure to have judgments recognised and declared enforceable and mechanisms for cooperation of courts in civil procedures, no legislative proposal has yet been made for actual measures of enforcement. To date, execution on a court order after it has been declared enforceable in another Member State remains entirely a matter of national law.

Current fragmentation of national rules on enforcement severely hampers cross-border debt collection. Creditors seeking to enforce an order in another Member State are confronted with different legal systems, procedural requirements and language barriers which entail additional costs and delays in the enforcement procedure. Under existing Community instruments, it is not possible to obtain a bank attachment which can be enforced throughout the European Union. The problems of cross-border debt recovery risk constituting an obstacle to the free circulation of payment orders within the European Union and an impediment for the proper functioning of the Internal Market. Late payment and non-payment jeopardises the interests of businesses and consumers alike. The differences in the efficiency of debt-recovery within the European Union also risk distorting competition among businesses operating in Member States as between efficient systems of enforcing payment orders and those where this is not the case. Community action on this subject therefore needs to be considered.

**CONTENT:** this Green Paper on improving the efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts. The purpose of this Green Paper is to launch a broad consultation among interested parties on how to improve the enforcement of monetary claims in Europe. The Green Paper describes the problems of the current situation and proposes the creation of a European system for the attachment of bank accounts as a possible solution.

The work of the Commission has been carried out on the basis of the Study on making more efficient the enforcement of judicial decisions within the European Union and of the outcome of meetings with national experts, held in 2003 and 2004.

A possible solution to the problems of debt-recovery outlined above would be to create a European procedure for the attachment of bank accounts which would allow a creditor in certain circumstances to secure the payment of a sum of money due to him by preventing the

removal or transfer of funds held to the credit of his debtor in one or several bank accounts within the territory of the European Union. The attachment order under this system would be a protective measure issued by a court in summary proceedings which would only allow a creditor to block funds, not to affect their transfer.

The decision whether or not to put forward a legislative proposal for the attachment of bank accounts will be subject to an impact assessment in which will be analysed the extent of the problems of cross-border debt recovery and the likely effectiveness of possible alternatives to a European instrument. An obvious alternative to Community action would be to maintain the status quo; another might be to abolish the exequatur procedure for attachment orders without at the same time establishing common standards for the procedure of granting attachment orders. The possibilities outlined in the Green Paper are not intended to prejudice the result of the impact assessment.

There are two different possible approaches to create a European attachment of bank accounts:

1. the first would consist of designing a new and self-standing European procedure which would be available to citizens and companies in addition to existing national procedures for banking seizures;
2. alternatively, Member States' national rules on the attachment of bank accounts could be harmonised by way of a European Directive with the aim of ensuring that the same rules and standards for the granting of an attachment order apply throughout the European Union.

The decision whether or not to initiate legislation in this area will be subject to an impact assessment in which will be analysed the extent of the problems of cross-border debt recovery and the effectiveness of possible alternatives to European rules.

Irrespective of the type of instrument chosen, a Commission proposal on the attachment of bank accounts would have to deal with a number of issues, as for example:

- the procedure for obtaining an attachment order would need to be clarified;
- the amount and possible limits of the attachment order would have to be defined;
- the effects of the order and procedural safeguards for the debtor would need to be assessed.

The Commission invites interested parties to submit comments before 31 March 2007. The Commission intends to organise a public hearing on the subject matter of the Green Paper. All those responding will be invited to attend. A Green Paper on how to improve the transparency of the debtor's assets will follow by the end of 2007.

## Efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts. Green Paper

---

The Committee on Legal Affairs adopted the initiative report by Kurt LECHNER (EPP-ED, DE) in response to the Green Paper on improving the efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts.

The report welcomes the fact that the Commission has taken an initiative aimed at establishing a cross-border European procedure for temporarily freezing bank deposits. It suggests that, when further studies are conducted, statistics should also be compiled with a view to gauging the real extent of those instances in which debtors evade justice and hence to giving a more accurate indication of the expediency of the measures to be proposed.

The committee believes that a standard European system should exist independently of, and in addition to, the Member States' respective national enforcement rules. It considers that a coherent and easy-to-use self-standing European procedure for attachment of bank accounts, subject to strong procedural safeguards, is preferable to harmonisation of Member States' legislation.

In addition, the report maintains that: i) the above procedure should apply only to cross-border cases; ii) the regulation should be confined to attachment of accounts; iii) the temporary freezing of bank deposits and under no circumstances extend to satisfaction of the creditor; iv) a legal basis for such a procedure might be found in Article 65(c) of the EC Treaty.

MEPs are of the opinion that orders should freeze accounts, not transfer funds until there is a subsequent court order from the Member State where the account is held, which should also resolve any issue of priority of claim. They consider that assets over the amount of the monetary claim, including costs, should not be frozen. Moreover, they state that justification for an order is necessary, such as risk of dissipation of assets. They point out that there should be safeguards to prevent orders from covering more accounts than is necessary.

The committee also highlights the following issues:

- there has to be a careful balance between the rights of creditors to recover debts and the provision of adequate protection for defendants;
- where a creditor has had a bank account attached without good reason, it might be appropriate for him to be made liable for the resulting damage to the debtor;
- sufficient information to identify an account must be given, even if banks have to conduct searches on name and address, which must be done diligently;
- it is appropriate to examine the question of reimbursing the costs incurred by banks in processing account seizures;
- the creditor should be obliged to institute the main proceedings within a fixed time limit;
- an extension in the event of outstanding legal proceedings should be permitted provided the proceedings are being conducted with due diligence;
- attachment of bank accounts needs to be subject to a quantitative limit in order to prevent too much money being frozen for the benefit of the creditor and to protect the debtor;
- the need to protect the debtor to the extent that unjustified damage to his reputation must be avoided and he must be guaranteed the wherewithal to live on;
- to protect the debtor and prevent abuse by the creditor, for as long as there is no unappealable enforceable title, the creditor should be required to provide security, the amount of which should be based on the sum to be frozen;
- a debtor should be entitled to appeal and allowed to end the attachment by providing security;
- trust accounts need to be specially protected against attachment;

- as regards the service of attachment orders, that uniform standards need to be laid down within the EU to govern communication between courts and banks;
- attachment orders should be transmitted by means that guarantee service upon the bank by the first day after transmission and processed within 24 hours of identification of the account;
- believes that formal notification must go from the bank to the enforcement authority and the creditor as to whether the amount liable has been secured;
- the bank must also formally notify the debtor when the attachment order becomes effective;
- considers that standardised formal notices, available for all official languages of the European Union, that eliminate or reduce the need for customised translations may be desirable.

The committee is opposed to a standard EU-wide attachment exemption level and believes that it should be up to the debtor to invoke the respective national limit governing non-attachable amounts.

Lastly, the Commission is called upon, before it submits any proposal, to clear up the ? in some cases ? thorny unresolved issues by conducting detailed, wide-ranging studies and in particular to carry out a legislative impact assessment.

## Efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts. Green Paper

---

The European Parliament adopted a resolution based on the own-initiative report drafted by Kurt LECHNER (EPP-ED, DE) in response to the Green Paper on improving the efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts. It welcomed the fact that, by publishing the Green Paper, the Commission had taken an initiative aimed at establishing a cross-border European procedure for temporarily freezing bank deposits.

Members advocated the introduction of a standard European system existing independently of, and in addition to, the Member States' respective national enforcement rules. Such a coherent and easy-to-use autonomous European procedure for attachment of bank accounts was preferable to harmonisation of Member States' legislation. The procedure should apply only to cross-border cases. Regulation should be confined to attachment of accounts and the temporary freezing of bank deposits, and it should under no circumstances extend to satisfaction of the creditor.

Parliament pointed out that a procedure of the type concerned must be capable of being initiated before the main proceedings begin. What was involved was merely a summary procedure requiring the creditor to furnish credible evidence of the merits of his claim and to demonstrate that his case was urgent and his rights in jeopardy. Parliament felt that orders should direct that accounts be frozen, not that funds be transferred, pending a subsequent court order from the Member State where the account was held, which should also resolve any issue of priority of claims. However, assets in excess of the amount of the monetary claim, including costs, should not be frozen.

Parliament was also of the opinion that a statement of the grounds for an order was necessary, such as a risk of dissipation of assets. There should be safeguards to prevent orders from covering more accounts than is necessary. A careful balance needed to be struck between the rights of creditors to recover debts and the provision of adequate protection for defendants. Where a creditor had had a bank account attached without good reason, it might be appropriate for him to be made liable for the resulting damage to the debtor.

Furthermore, the report indicated the following :

- sufficient information to identify an account must be given, even if this meant that banks, exercising due circumspection, have to conduct searches in respect of names and addresses;
- it was appropriate to examine the question of reimbursing the costs incurred by banks in processing account seizures;
- the creditor should be obliged to institute the main proceedings within a fixed time-limit;
- an extension in the case of legal proceedings which had not yet been finally concluded should nevertheless be permissible, provided the proceedings were being conducted with due diligence;
- attachment of bank accounts needed to be subject to a quantitative limit in order to prevent too much money from being frozen for the benefit of the creditor and to protect the debtor. The report stressed the need to protect the debtor to the extent that unjustified damage to his reputation must be avoided and he must be guaranteed the wherewithal on which to subsist;
- in order to protect the debtor and prevent abuse by the creditor, the creditor should be required to provide security, the amount of which should be based on the sum to be frozen;

Parliament stated that it was opposed to a standard EU-wide attachment exemption level and believed that it should be up to the debtor to invoke the respective national limit governing non-attachable amounts. A debtor should be entitled to appeal and allowed to end the attachment by providing security. Trust accounts need to be specially protected against attachment. The report stated that attachment of joint accounts should be possible subject to appropriate guarantees and safeguards with respect to the rights of third parties other than the debtor.

As regards the service of attachment orders, uniform standards needed to be laid down within the EU to govern communication between courts and banks (for example by using standard forms). Attachment orders should be transmitted by means that guarantee service upon the bank by the first day after transmission and processed within 24 hours of identification of the account. The bank should be required formally to notify the enforcement authority and the creditor as to whether the amount liable had been secured. The bank should also be required formally to notify the debtor when the attachment order became effective. It would be desirable for standardised formal notices to be available in all official languages of the EU, thereby eliminating or reducing the need for customised translations.

Lastly, Parliament called on the Commission, before it submits any proposal, to clear up the unresolved issues by conducting detailed, wide-ranging studies, and in particular to carry out a legislative impact assessment.