



Procedure file

Basic information		
INI - Own-initiative procedure	2008/2233(INI)	Procedure completed
Effective enforcement of judgments in the EU: the transparency of debtors' assets		
Subject		
3.45.03 Financial management of undertakings, business loans, accounting		
7.40.02 Judicial cooperation in civil and commercial matters		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	JURI Legal Affairs		25/06/2008
	Committee for opinion	PSE GILL Neena	
	EMPL Employment and Social Affairs	Rapporteur for opinion	Appointed
		The committee decided not to give an opinion.	
	LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	
	ECON Economic and Monetary Affairs (Associated committee)		24/09/2008
		PSE SÁNCHEZ PRESEDO Antolín	
European Commission	Commission DG	Commissioner	
	Justice and Consumers	BARROT Jacques	

Key events			
05/03/2008	Non-legislative basic document published	COM(2008)0128	Summary
23/09/2008	Committee referral announced in Parliament		
23/09/2008	Referral to associated committees announced in Parliament		
31/03/2009	Vote in committee		Summary
06/04/2009	Committee report tabled for plenary	A6-0252/2009	
21/04/2009	Debate in Parliament		
22/04/2009	Results of vote in Parliament		
22/04/2009	Decision by Parliament	T6-0238/2009	Summary
22/04/2009	End of procedure in Parliament		

Technical information	
Procedure reference	2008/2233(INI)
Procedure type	INI - Own-initiative procedure

Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 54-p4; Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	JURI/6/66779

Documentation gateway					
Non-legislative basic document		COM(2008)0128	06/03/2008	EC	Summary
Document attached to the procedure		52009XX0127(01) OJ C 020 27.01.2009, p. 0001	22/09/2008	EDPS	Summary
Committee opinion	ECON	PE414.932	15/12/2008	EP	
Committee draft report		PE418.248	15/01/2009	EP	
Amendments tabled in committee		PE418.430	27/01/2009	EP	
Committee report tabled for plenary, single reading		A6-0252/2009	06/04/2009	EP	
Text adopted by Parliament, single reading		T6-0238/2009	22/04/2009	EP	Summary
Commission response to text adopted in plenary		SP(2009)3615	27/10/2009	EC	

Effective enforcement of judgments in the EU: the transparency of debtors' assets

PURPOSE: to launch a broad consultation among interested parties on how to improve the transparency of debtors' assets in the European Union (Green Paper).

BACKGROUND: there is a risk that problems of cross-border debt recovery may be an obstacle to the free circulation of payment orders within the European Union and may impede the proper functioning of the Internal Market. Late payment and non-payment jeopardise the interests of businesses and consumers alike. This is particularly the case when the creditor and the enforcement authorities have no information about the debtor's whereabouts or his assets.

The search for the debtor's address and/or for information about his financial situation is often the starting point of enforcement proceedings. At present, transparency of debtors' assets is generally achieved at national level through different sources of information, in particular through registers and the debtor's declaration. While the basic structures of the national systems appear similar, there are considerable differences in the conditions of access, the procedures for obtaining information, the content and the overall efficiency of the systems.

There are two different kinds of techniques providing access to information: 1) the first is a system of declaration of the entire patrimony by the debtor. In some Member States, there is a similar system under which the debtor is also obliged to disclose his assets, but only to the extent necessary for the satisfaction of the claim. 2) other Member States, especially those where the debtor is not required to disclose his patrimony, allow access to search systems which provide specific information.

The cross-border recovery of debts is hampered by the differences between the national legal systems and by insufficient knowledge on the part of creditors about the information structures in other Member States. However, the similarity of the underlying structures of the legal systems of the Member States could provide a basis for approximation. As an objective, possible measures at European level could improve the transparency of the debtors' assets and the right of creditors to obtain information whilst respecting the principles of the protection of the debtor's privacy, which counterbalance the creditor's right to efficient recovery and which are prescribed by the Data Protection Directive 95/46/EC.

CONTENT: the purpose of this Green Paper is to launch a broad consultation among interested parties on how to improve the transparency of debtors' assets in the European Union which is provided through registers and by the debtor's declaration. It focuses on improvements of public enforcement of judgments. This means that neither questions of (material) limits to enforcement nor the roles of private or semiprivate organisations in the enforcement process are discussed.

The Commission believes that it is worth taking into account a number of measures that might improve the current situation, helping to ensure that the creditor obtains reliable information on his debtor's assets within a reasonable period of time, and in particular:

- Drawing up a manual of national enforcement laws and practices: such a manual could contain all the sources of information about a person's assets which can be accessed in each Member State, the contact addresses of persons who can obtain access to that information if access is limited, the costs of access and other relevant details. This manual could be made available on the website of the European Judicial Network in civil and commercial matters.
- Increasing the information available in and improving access to registers (social security, tax registers): the main sources of information are public records, and the most important of these are commercial registers.
- Exchange of information between enforcement authorities: in the absence of Europe-wide registers - one option could be to enhance

cooperation between national enforcement authorities and introduce the direct exchange of information between them. Enforcement bodies in one Member State would be able to request the assistance of the competent bodies in other Member States. In this regard, the existing Community instrument on the mutual assistance of tax authorities could serve as a model.

- Measures relating to the debtor's declaration: one possibility would be a Community instrument setting out the obligation of Member States to introduce a procedure for the taking of a debtor's declaration, but leaving them discretion as to the conditions under which such a declaration would have to be made. Another option would be to create a Community instrument setting out the obligation of Member States to introduce a procedure for the taking of a debtor's declaration or the introduction of a uniform 'European Assets Declaration' which would oblige debtors to disclose all assets in the European Judicial area.

The Commission invites interested parties to submit comments by 30 September 2008.

Effective enforcement of judgments in the EU: the transparency of debtors' assets

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the Commission Green Paper on the Effective Enforcement of Judgements in the European Union: the Transparency of Debtors' Assets.

On 10 March 2008, the European Commission requested an opinion from the European Data Protection Supervisor on the Commission Green Paper. The Green Paper focuses on possible measures at EU level that can be adopted with a view to 'improve the transparency of the debtor's assets and the right of creditors to obtain information whilst respecting the principles for the protection of debtor's privacy' pursuant to the provisions of [Directive 95/46/EC](#). It analyzes in detail the current situation as well as a broad range of possible options to reach these objectives.

The EDPS welcomes the Green Paper and the broad consultation to which it has been submitted and recommends that:

- possible legislative actions stemming from the Green Paper should ensure that the processing of personal data carried out by the whole range of enforcement authorities is clearly based on at least one of the legal grounds laid down by Article 7 of Directive 95/46/EC, and in particular its letter (c) and/or (e);
- the proportionality principle is duly taken into account not only with regard to the data elements to be disclosed by the debtors, but also with regard to other aspects such as the period of time during which the data are stored and disclosed, the entities having access to data, and the modalities of disclosure;
- any measures on transparency of debtors' assets respect the purpose limitation principle and that any necessary exception would comply with the conditions laid down by Article 13 of Directive 95/46/EC;
- aspects concerning the provision of information to the debtors, the rights of data subjects, and the security of processing are duly taken into account.

The EDPS is available to provide informal comments on draft proposals arising from this Green Paper and expects to be consulted on any adopted legislative proposals pursuant to Article 28(2) of [Regulation \(EC\) No 45/2001](#).

Effective enforcement of judgments in the EU: the transparency of debtors' assets

The Committee on Legal Affairs adopted the own-initiative report drawn up by Neena GILL (PES, UK) on the effective enforcement of judgments in the European Union: the transparency of debtors' assets in response to the Commission's Green Paper on the subject. Members welcome the Green Paper, because it contributes to the Lisbon Strategy. They point out that late payment, non-payment and the problem of debt recovery damage the interests of creditor businesses and consumers, reduce confidence in the internal market and undermine legal action. The report support an integrated strategy based on the principles of "better lawmaking". The objective should be payment that ensures non-discrimination, the protection of sensitive data and legal guarantees with proportionate measures that provide the requisite transparency and significantly reduce processing and management costs. Members insist that, besides publicly available information, the creditor should have access to the data required 'subject to supervision by a competent authority' in order to initiate the enforcement procedure and recover the debt by procedures readily applicable throughout the internal market. Whilst agreeing with the Commission that cross-border debt recovery through enforcement of judicial decisions is a major internal market problem, Members consider that the solutions mooted by the Commission need further work in order adequately to address the most difficult problem, that of recalcitrant debtors.

The report goes on to discuss the following:

A manual of national enforcement laws and practices: such a manual might be laborious and expensive to produce. For individuals seeking redress, it might be easier to have one regime to deal with, and in the majority of cases creditors will have to seek advice from lawyers in the relevant foreign jurisdiction. However, a streamlined version may be useful in the absence of a workable cross-border regime. Also the publication of national directories of foreign lawyers exercising their internal market rights would be useful.

Increasing the information available in, and improving access to, public registers: the committee is opposed to providing unjustified, indiscriminate and arbitrary access to all kinds of data held on population, social security and tax registers, and in favour of an adequate and proportionate framework designed to ensure the effective enforcement of judgments in the EU.

Exchange of information between enforcement authorities: improved cooperation between public enforcement bodies may be worth exploring further, but such bodies do not exist in all the Member States.

The debtor's declaration: this can be useful and form part of the procedure for enforcing a judgment, where it can be backed by sanctions under national law. There is no need for Community action in this area, as long as it is not proved that the Member States' existing instruments are not efficient.

Other measures: the report suggests that consideration could be given to the idea of introducing a form of Community provisional measure additional to those of national courts. This could take the form of a simple procedure to which effect could be given throughout the EU, thereby avoiding delay and unnecessary expense. The committee calls on the Commission to treat this matter as a priority and to carry out

- a detailed appraisal of the problem;

- a feasibility study of possible Community instruments and
- an impact assessment of possible Community-law remedies confined to trans-border aspects.

Any Community instrument should be limited to cross-border cases and not interfere with the application of purely national remedies in this area.

Effective enforcement of judgments in the EU: the transparency of debtors' assets

The European Parliament adopted by 641 votes to 16, with 20 abstentions, a resolution on effective enforcement of judgments in the European Union: the transparency of debtors' assets in response to the Commission's Green Paper on the subject. Members welcome the Green Paper, because it contributes to the Lisbon Strategy. They point out that late payment, non-payment and the problem of debt recovery damage the interests of creditor businesses and consumers, reduce confidence in the internal market and undermine legal action. Parliament supports an integrated strategy based on the principles of "better lawmaking". The objective should be payment that ensures non-discrimination, the protection of sensitive data and legal guarantees with proportionate measures that provide the requisite transparency and significantly reduce processing and management costs. Members insist that, besides publicly available information, the creditor should have access to the data required ? subject to supervision by a competent authority ? in order to initiate the enforcement procedure and recover the debt by procedures readily applicable throughout the internal market. Whilst agreeing with the Commission that cross-border debt recovery through enforcement of judicial decisions is a major internal market problem, Members consider that the solutions mooted by the Commission need further work in order adequately to address the most difficult problem, that of recalcitrant debtors.

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