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

2007/2026(INI) - 25/10/2007 - Text adopted by Parliament, single reading

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.