

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

2008/2233(INI) - 31/03/2009

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.