

European Small Claims Procedure

2005/0020(COD) - 19/11/2013 - Follow-up document

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.