European small claims procedure and European order for payment procedure: improving access to justice and the efficiency of justice

2013/0403(COD) - 23/04/2015 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Lidia Joanna GERINGER de OEDENBERG (S&D, PL) on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 861/2007 of the European Parliament and the Council of 11 July 2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows:

Scope: this Regulation shall apply to civil and commercial matters, whatever the nature of the court or tribunal, where the value of a claim: (i) **is up to EUR 10 000** if pursued against a legal person; (ii) or **less than EUR 5 000** if pursued against a natural person at the time when the claim form is received by the court or tribunal with jurisdiction, excluding all interest, expenses and disbursements.

Members deleted the exclusions and the exceptions provided for in the proposal as regards the scope.

Procedure: according to an amendment, the court which ruled on the substance of the claim shall **inform the claimant of such dismissal and of the possible means of appealing** against the decision taken.

Member States shall ensure that all courts and tribunals at which the European Simplified Procedure can be commenced **meet their obligation to provide citizens, through the competent services, with the standard claim Form A in paper form**. This amendment is justified by the fact that in certain EU countries, a clear obligation needs to be laid down for the courts to make standard claim Form A available to citizens in paper form through the registry.

Members also stipulated that **court hearings should not be mandatory** for court settlements. They should only take place if required.

Hearings by videoconference: Members considered that the Member States should be allowed an additional period to ensure that the relevant equipment is available in courtrooms before it becomes mandatory to hold oral hearings by videoconference.

Therefore, Members proposed that from **3 years after the entry into force this Regulation**, any oral hearing shall be held through videoconference, teleconference or other appropriate distance communication technology, where the party to be heard is domiciled in a Member State other than the Member State of the court or tribunal with jurisdiction.

Member States shall ensure that the relevant courts and tribunals are equipped with appropriate distance communication technology.

Obtaining evidence: Members suggested that the court or tribunal shall allow the parties to address questions to the witnesses heard **in writing**, where it considers this necessary in order to reach a fair settlement of the claim. The expert who is to be heard shall be appointed by the court or tribunal.

Procedure costs and means of payment: according to the Commission proposal, the court fee charged for a European Simplified Procedure shall not exceed 10% of the value of the claim. Members considered that the proposed percentage of 10% of the value of the claim is too high. It would be more appropriate to **set stamp duty at 5%** of the value of the claim.

Each Member State shall set a **minimum income threshold** under which a party shall not be required to pay any court fees.

Review: an interim report shall be prepared by, **2 years after the date of application**, which shall examine the dissemination of information about the European Simplified Procedure in the Member States, and may produce recommendations concerning how to improve the public awareness of this instrument.

Minimum standards for review of the judgment: Article 18 of the Regulation 861/2007 will be amended in a manner consistent with corresponding provision of Regulation 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, to bring more clarity and facilitate its application in practice. As there is no reason why these provisions on review, which pursue exactly the same objective, are formulated differently in the various European regulations it is opportune to amend also corresponding Article 20 of Regulation (EC) No 1896/2006.

Entry into force: the Regulation shall apply from **12 months after its entry into force**, with the exception of points 13 to 15 of Article 1, which shall apply from the date of entry into force.