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

2013/0403(COD) - 07/10/2015 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 650 votes to 26 with 28 abstentions, a legislative resolution 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 position of the European Parliament adopted in first reading following the ordinary legislative procedure amended the proposal as follows:

Scope: the Regulation shall apply to civil and commercial matters, whatever the nature of the court or tribunal, where the value of a claim does not exceed **EUR 5 000** at the time when the claim form is received by the court or tribunal with jurisdiction, excluding all interest, expenses and disbursements.

The Regulation states that **a cross-border case** should be considered to exist when at least one of the parties is domiciled or habitually resident in a Member State bound by this Regulation other than the Member State of the court or tribunal seised.

The Regulation **shall not apply to** matters concerning, inter alia, rights in property arising out of a matrimonial relationship or out of a relationship deemed by the law applicable to such relationship to have comparable effects to marriage; maintenance obligations arising from a family relationship, parentage, marriage or affinity; wills and succession, including maintenance obligations arising by reason of death.

Procedure: an amendment states that 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.

Oral hearing: where an oral hearing is considered necessary, it shall be held by making use of any appropriate distance communication technology, such as **videoconference or teleconference,** available to the court or tribunal, unless the use of such technology is not appropriate for the fair conduct of the proceedings.

A party summoned to be physically present at an oral hearing may request the use of distance communication technology on the grounds that the arrangements for being physically present, in particular as regards the possible costs incurred by that party, would be disproportionate to the claim.

Assistance for the parties: the parties should receive both **practical assistance in filling in the forms** and **general information** on the scope of application of the European Small Claims Procedure, as well as general information as to which courts or tribunals in the Member State concerned are competent to give a judgment. That assistance shall be provided **free of charge**. Nothing in this paragraph requires the Member States to provide for legal aid or for legal assistance in the form of a legal assessment of a specific case.

The standard claim Form A should be available at all courts and tribunals before which the European Small Claims Procedure can be commenced, and **accessible through relevant national websites.**

Service of documents and other written communications: for documents which need to be served on the parties in the European Small Claims Procedure, electronic service should be on an equal footing with postal service. To that end, the Regulation sets **a general framework that allows the use of electronic service** whenever the necessary technical means are available and where the use of electronic service is compatible with the national procedural rules of the Member States involved.

Court fees and methods of payment: the court fees charged in a Member State for a European Small Claims Procedure **shall not be disproportionate** and shall not be higher than the court fees charged for national simplified court procedures in that Member State. They should not include, for example, sums which are transferred to third parties in the course of proceedings, such as lawyers' fees, translation costs, costs of service of documents by entities other than a court or tribunal, or costs paid to experts or witnesses.

Member States shall ensure that the parties **can pay the court fees by means of distance payment methods** by offering at least one of the following methods of payment: (i) bank transfer; (ii) credit or debit card payment; (iii) direct debit from the claimant's bank account

Court settlements: Parliament specified that a court settlement approved by or concluded before a court or tribunal in the course of a European Small Claims Procedure should be recognised and enforced in another Member State under the same conditions as a judgment given in a European Small Claims Procedure.

Review: within 5 years of the date of application of the Regulation, the commission present a report evaluating whether:

- **a further increase of the limit** in order is appropriate to facilitate access to justice for citizens and small and medium-sized enterprises in cross-border cases; and
- **an extension of the scope** of the European Small Claims Procedure, in particular to claims for remuneration, is appropriate to facilitate access to justice for employees in cross-border employment disputes with their employer, after considering the full impact of such an extension.

Two years after the date of application of the Regulation, the Commission shall present a report on the dissemination of information about the European Small Claims Procedure in the Member States, and may produce recommendations as to how to make that procedure better known.