

European order for payment procedure

2004/0055(COD) - 19/03/2004 - Legislative proposal

PURPOSE : The creation of a European order for payment procedure. **PROPOSED ACT :** Regulation of the European Parliament and of the Council. **CONTENT :** This Regulation is being proposed in line with the stated objective of the Treaty of Amsterdam to create an area of freedom, security and justice. In order to fulfil these objectives the Treaty calls on the adoption of measures in the field of judicial co-operation in civil matters. The 1999 Tampere European Council called on the European Commission to prepare new legislation relating to civil procedures. Amongst the measures prioritised by the Heads of State was the approximation of measures relating to a payment procedure. This proposal is a response to this request. Its specific objective is the creation of a uniform European procedure for the swift attainment of an enforceable decision on non-contested payment claims. When preparing the draft Regulation the European Commission took into account the views of Member States, businesses and interested parties. The Commission received around 60 replies in response to the publication of its Green Paper on a European order for payment procedure and on measures to simplify and speed up small claims litigation. The responses received indicate that a harmonised payment procedure would be deemed a huge advantage not only in relation to access to justice but also to the proper functioning of the internal market. The swift recovery of outstanding debts whose justification is not called into question is of paramount importance for economic operators in the European Union. The current situation of diverging national procedures makes it difficult for businesses, and SME's in particular, to enforce payment of uncontested claims in another EU Member State. The proposed Regulation seeks to address this shortcoming by offering creditors the chance to enforce payment of claims through a harmonised payment procedure applicable across the EU. The Commission argues that a uniform European order for payment will go a long way towards providing easier access to efficient justice. Concerning the scope of the draft Regulation, the Commission proposes that it should apply, not only to cases of a cross-border nature, but equally to internal domestic cases. In the interests of subsidiarity, however, Member States would be in a position to adopt the harmonised European payment procedure on an optional basis. This is useful in cases where Member States feel that their domestic legislation is more comprehensive than that of the proposed EU payment procedure.