European order for payment procedure

2004/0055(COD) - 30/06/2006 - Council position

The Council’s common position was adopted by unanimity. It preserves the essentials of the Commission’ s initial proposal as modified by the amended proposal.

The main changes made in the common position concern the following issues:

- the common position limits the scope of application to cross-border cases; a cross-border case is defined as a case is one in which at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the seized court;

- several changes have been made to the text to enable electronic and automated processing of the application;

- the initial two-step order for payment procedure has been replaced by a single phase procedure. However, additional procedural guarantees have been inserted in the text to protect the rights of the parties to the proceedings. Thus, the court upon receiving an application will examine on the basis of the application form whether the admissibility criteria are met and whether the claim appears to be founded. Based on that examination, the court could either reject the application or deliver a European order for payment;

- the Regulation now foresees a possibility for issuing a European order for payment for a part of the claim in case the claimant agrees;

- the Regulation has clarified the deadlines for different procedural phases. In order to assure consistency, the Regulation makes use of a uniform 30-day deadline for the delivery of the European order for payment and for sending the statement of opposition;

- differently from the original proposal, the Regulation now includes provisions on enforcement. The abolition of exequatur has been included in the text of the Regulation itself, accompanied by the minimum standards already foreseen in Regulation 805/2004/EC creating a European enforcement order for uncontested claims;

- the common position includes a detailed review clause.