

# European order for payment procedure

2004/0055(COD) - 12/12/2006 - Final act

**PURPOSE:** to simplify, speed up and reduce the costs of litigation in cross-border cases.

**LEGISLATIVE ACT:** Regulation 1896/2006/EC of the European Parliament and of the Council creating a European order for payment procedure.

**CONTENT:** the swift and efficient recovery of outstanding debts is of paramount importance for economic operators in the EU. Late payments are a major cause of insolvency. The issue of mass recovery of uncontested claims is a major policy issue in the majority of Member States. However, the content of national legislation and the performance of domestic procedures vary substantially. Further, the procedures that currently exist are either inadmissible or impracticable in cross-border cases.

The purpose of this legislation, therefore, is:

- to simplify, speed-up and reduce the costs of litigation in cross-border cases in uncontested pecuniary claims by creating a European order for payment procedures; and
- to permit the free circulation of European orders for payment throughout the Member States. It does so by laying down minimum standards the compliance of which renders any intermediate proceedings in the Member States, of enforcement prior to recognition, unnecessary.

The Regulation neither replaces nor harmonises the existing mechanisms for the recovery of uncontested claims under national law.

In terms of the Regulation's scope, it will apply to civil and commercial matters in cross-border cases, whatever the nature of the court of tribunal. It will not extend to revenue, customs or administrative matters or the liability of the State for actors and omissions in the exercise of State authority. Similarly, the Regulation will not apply to: rights in property arising out of a matrimonial relationship, wills and succession; bankruptcy, insolvency, judicial arrangements, composition and analogous proceedings; social security; and most claims arising from non-contractual obligations.

The Regulation sets up cross-border cases procedures, whereby a cross-border case is defined as 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 court seised.

In addition, the Regulation establishes a European order for payment procedure for the collection of pecuniary claims for a specific amount that has fallen due at the time when the application for a European order for payment is submitted. The court seised of an application for a European order for payment will examine, on the basis of strict criteria, whether the claim appears to be well founded. This examination may take the form of an automated procedure. If the requirements are met, the court will issue, normally within 30 days, a European order for payment using standard forms as set out in Annex to the Regulation.

A European order for payment which has become enforceable in the Member State of origin will be recognised and enforced in the other Member States without the need for a declaration of enforceability and without any possibility to oppose its recognition.

The Regulation applies to all EU Member States other than Denmark.

ENTRY INTO FORCE: 31/12/2006.

APPLICATION: the Regulation applies from 12 December 2008, with the exception of provisions on: Information relating to service costs and enforcement; Information relating to jurisdiction, review procedures, means of communication and languages; Amendments to the Annexes and the establishment of a Committee, which will apply from 12 June 2008.