

# EUROPEAN PROCEDURES

**This Practice Direction supplements CPR Part 78**

## **EOP Regulation and application of the Civil Procedure Rules**

- 1.1** EOP applications are primarily governed by the EOP Regulation. Where the EOP Regulation is silent, the Civil Procedure Rules apply with necessary modifications.

### **Rule 78.3 – Application for a European order for payment**

- 2.1** An EOP application form A must be –
- (1) completed in English or accompanied by a translation into English; and
  - (2) filed at court in person or by post.
- 2.2** An EOP application made to the High Court will be assigned to the Queen's Bench Division, but that will not prevent the application being transferred where appropriate.

### **Filing documents at court other than the EOP application form A**

- 3** Documents other than the EOP application form A that are filed at or sent to the court in the EOP proceedings, including statements of opposition, may be filed, in addition to by post or in person, by –
- (1) fax; or
  - (2) other electronic means where the facilities are available.

### **Service**

- 4** Where the EOP Regulation is silent on service, the Service Regulation and the Civil Procedure Rules apply as appropriate.

### **Article 9 of the EOP Regulation – completion or rectification of the EOP application form A**

- 5.1** Article 9 of the EOP Regulation makes provision for the completion or rectification of the EOP application form A within a specified time.
- 5.2** The time specified for the purposes of article 9 will normally be within 30 days of the date of the request by the court to complete or rectify the EOP application form A (using form B annexed to the EOP Regulation).

### **Applications under Part 23**

- 6.1** Where an application is made under Section I of Part 78, there will not normally be an oral hearing.
- 6.2** Where an oral hearing is to be held, it will normally take place by telephone or video conference.

### **Rule 78.9 – Enforcement of European orders for payment**

- 7.1** When an EOP is filed at the High Court or county court in which enforcement proceedings are to be brought, it will be assigned a case number.
- 7.2** A copy of a document will satisfy the conditions necessary to establish its authenticity if it is an official copy of the court of origin.
- 7.3** If judgment is set aside in the court of origin, the judgment creditor must notify all courts in which enforcement proceedings are pending in England and Wales under the EOP as soon as reasonably practicable after the order is served on the judgment creditor. Notification may be by any means available including fax, e-mail, post or telephone.

### **Rule 78.10 – An application for refusal of enforcement**

- 8.1** An application must be accompanied by an official copy of the earlier judgment, any other documents relied upon and any translations required by the EOP Regulation.
- 8.2** Where the applicant relies on article 22(1) of the EOP Regulation, the application must be supported by written evidence showing –
  - (1)** why the earlier judgment is irreconcilable with the judgment which the claimant is seeking to enforce; and
  - (2)** why the irreconcilability was not, and could not have been, raised as an objection in the proceedings in the court of origin.
- 8.3** Where the applicant relies on article 22(2), the application must be supported by written evidence of the extent to which the defendant has paid the claimant the amount awarded in the EOP.

### **Rule 78.11 – Stay of or limitation on enforcement**

- 9.1** Unless the court orders otherwise, an application must be accompanied by evidence of the review application in the court of origin, including –
  - (1)** the review application or a copy of the review application certified by an appropriate officer of the court of origin; and
  - (2)** where that document is not in English, a translation of it into English.
- 9.2** The written evidence in support of the application must state –
  - (1)** that a review application has been brought in the Member State of origin;
  - (2)** the nature of that review application; and
  - (3)** the date on which the review application was filed, the stage the application has reached and the date by which it is believed that the application will be determined.

### **ESCP Regulation and application of the Civil Procedure Rules**

- 10** Claims under the ESCP are primarily governed by the ESCP Regulation. Where the ESCP Regulation is silent, the Civil Procedure Rules apply with necessary modifications. In particular, Part 52 applies to any appeals.

### **Rule 78.13 – Filing an ESCP claim form**

- 11** An ESCP claim form must be filed at court in person or by post.



## **Article 4(4) of the ESCP Regulation – inadequate or insufficient information**

- 12.1** Article 4(4) of the ESCP Regulation makes provision for –
- (1) the completion or rectification of the claim form;
  - (2) the supply of supplementary information or documents; or
  - (3) the withdrawal of the claim,  
within a specified time.
- 12.2** The time specified for the purposes of article 4(4) is within 30 days of the date of the request by the court to complete or rectify the claim form (using Form B annexed to the ESCP Regulation).

## **Rule 78.14 – Allocation of ESCP claims**

- 13.1** Rule 78.14(1) provides that ESCP claims are treated as if they were allocated to the small claims track. However, rule 78.14(2) disappplies rule 27.14 on costs because recital 29 to the ESCP Regulation contains different provisions on costs.
- 13.2** Rule 26.6(1) (scope of the small claims track) is also disappplied because article 2(1) of the ESCP Regulation has a different financial limit.

## **Filing documents at court other than the ESCP claim form**

- 14** Documents other than the ESCP claim form that are filed at or sent to the court in the ESCP proceedings, including the defendant's response, may be filed, in addition to by post or in person, by –
- (1) fax; or
  - (2) other electronic means where the facilities are available.

## **Service**

- 15** Where the ESCP Regulation is silent on service, the Service Regulation and the Civil Procedure Rules apply as appropriate.

## **Rule 78.17 – Transfer of proceedings where the defendant claims that the non-monetary claim exceeds the limit set in article 2(1) of the ESCP Regulation – article 5(5) of the ESCP Regulation**

- 16.1** Rule 78.17(7) applies to counterclaims as if the counterclaim were an ESCP claim because the second paragraph of article 5(7) of the ESCP Regulation applies certain provisions about claims in the ESCP Regulation, including article 5(5), to ESCP counterclaims.
- 16.2** Attention is also drawn to the first paragraph of article 5(7) of the ESCP Regulation (transfer of claim and counterclaim in certain circumstances).

## **Oral hearing under article 8 of the ESCP Regulation**

- 17.1** Attention is drawn to article 5(1) of the ESCP Regulation, which sets out limitations on when oral hearings may be held.
- 17.2** Where an oral hearing is to be held, it will normally take place by telephone or video conference.

## **Applications under Part 23**

- 18.1** Where an application is made under Section II of Part 78 there will not normally be an oral hearing.
- 18.2** Where an oral hearing is to be held, it will normally take place by telephone or video conference.

### **Rule 78.20 – Enforcement of an ESCP judgment**

- 19.1** When an ESCP judgment is filed at the High Court or county court in which enforcement proceedings are to be brought, it will be assigned a case number.
- 19.2** A copy of a document will satisfy the conditions necessary to establish its authenticity if it is an official copy of the courts of the Member State of judgment.
- 19.3** If judgment is set aside in the Member State of judgment, the judgment creditor must notify all courts in which proceedings are pending in England and Wales to enforce the ESCP judgment as soon as reasonably practicable after the order is served on the judgment creditor. Notification may be by any means available including fax, e-mail, post or telephone.

### **Rule 78.21 – Application for refusal of enforcement**

- 20.1** An application must be accompanied by an official copy of the earlier judgment, any other documents relied upon and any translations required by the ESCP Regulation.
- 20.2** The application must be supported by written evidence showing –
- (1) why the earlier judgment is irreconcilable with the judgment which the claimant is seeking to enforce; and
  - (2) why the irreconcilability was not, and could not have been, raised as an objection in the proceedings in the Member State of judgment.

### **Rule 78.22 – Stay of or limitation on enforcement – application following application for review or where the judgment has been challenged**

- 21.1** This paragraph applies where a defendant makes an application under article 23 of the ESCP Regulation in circumstances where –
- (1) an application for review has been made under article 18 ('review application'); or
  - (2) the defendant has challenged the judgment.
- 21.2** Unless the court orders otherwise, the application under article 23 must be accompanied by evidence of the review application or challenge in the Member State of judgment. This must include a copy of the document initiating the review application or challenge or a copy of the review application or challenge, certified by an appropriate officer of the court in the Member State of judgment.
- 21.3** Where a document is not in English, it must be accompanied by a translation of it into English.
- 21.4** The written evidence in support of the application must state –
- (1) that a review application or challenge has been brought in the Member State of judgment;
  - (2) the nature of that review application or challenge; and

- (3) the date on which the review application or challenge was filed, the state of the proceedings and the date by which it is believed that the application or challenge will be determined.

**Rule 78.24 Making a mediation settlement enforceable (mediation settlement enforcement orders)**

- 22.1** Where an application for a mediation settlement enforcement order is made under rule 78.24(1)(a) in accordance with Part 23, a copy of the application notice, mediation settlement agreement and evidence of explicit consent must be served on all parties to the mediation settlement agreement who are not also parties to the application.
- 22.2** Where an application for a mediation settlement enforcement order is made under rule 78.24(1)(b) by the Part 8 procedure –
- (1) the claim form may be issued without naming a defendant; and
  - (2) a copy of the claim form, mediation settlement agreement and evidence of explicit consent must be served on all parties to the mediation settlement agreement who are not also parties to the application.
- 22.3** No document relating to an application for a mediation settlement enforcement order may be inspected by a person who is not a party to the proceedings under rule 5.4C without the permission of the court.
- 22.4** Where the application is supported by evidence of explicit consent to the application by a party to the mediation settlement agreement, the evidence must be in English or accompanied by a translation into English.
- 22.5** Where a party to the mediation settlement agreement writes to the court consenting to the making of the mediation settlement enforcement order, the correspondence must be in English or accompanied by a translation into English.
- 22.6** Where the parties to pending proceedings agree to apply for a mediation settlement enforcement order, they must inform the court immediately.

## I

(Acts whose publication is obligatory)

### 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 EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee <sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) The Community has set itself the objective of maintaining and developing an area of freedom, security and justice in which the free movement of persons is ensured. For the gradual establishment of such an area, the Community is to adopt, inter alia, measures in the field of judicial cooperation in civil matters having cross-border implications and needed for the proper functioning of the internal market.
- (2) According to Article 65(c) of the Treaty, these measures are to include measures eliminating obstacles to the good functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States.
- (3) The European Council meeting in Tampere on 15 and 16 October 1999 invited the Council and the Commission to prepare new legislation on issues that are instrumental to smooth judicial cooperation and to enhanced access to law and specifically made reference, in that context, to orders for money payment.
- (4) On 30 November 2000, the Council adopted a joint Commission and Council programme of measures for implementation of the principle of mutual recognition of

decisions in civil and commercial matters <sup>(3)</sup>. The programme envisages the possibility of a specific, uniform or harmonised procedure laid down within the Community to obtain a judicial decision in specific areas including that of uncontested claims. This was taken forward by the Hague Programme, adopted by the European Council on 5 November 2004, which called for work to be actively pursued on the European order for payment.

- (5) The Commission adopted a Green Paper on a European order for payment procedure and on measures to simplify and speed up small claims litigation on 20 December 2002. The Green Paper launched consultations on the possible objectives and features of a uniform or harmonised European procedure for the recovery of uncontested claims.
- (6) The swift and efficient recovery of outstanding debts over which no legal controversy exists is of paramount importance for economic operators in the European Union, as late payments constitute a major reason for insolvency threatening the survival of businesses, particularly small and medium-sized enterprises, and resulting in numerous job losses.
- (7) All Member States are trying to tackle the issue of mass recovery of uncontested claims, in the majority of States by means of a simplified order for payment procedure, but both the content of national legislation and the performance of domestic procedures vary substantially. Furthermore, the procedures currently in existence are frequently either inadmissible or impracticable in cross-border cases.
- (8) The resulting impediments to access to efficient justice in cross-border cases and the distortion of competition within the internal market due to imbalances in the functioning of procedural means afforded to creditors in different Member States necessitate Community legislation guaranteeing a level playing field for creditors and debtors throughout the European Union.

<sup>(1)</sup> OJ C 221, 8.9.2005, p. 77.

<sup>(2)</sup> Opinion of the European Parliament of 13 December 2005 (not yet published in the Official Journal), Council Common Position of 30 June 2006 (not yet published in the Official Journal) and Position of the European Parliament of 25 October 2006. Council Decision of 11 December 2006.

<sup>(3)</sup> OJ C 12, 15.1.2001, p. 1.

- (9) The purpose of this Regulation is to simplify, speed up and reduce the costs of litigation in cross-border cases concerning uncontested pecuniary claims by creating a European order for payment procedure, and to permit the free circulation of European orders for payment throughout the Member States by laying down minimum standards, compliance with which renders unnecessary any intermediate proceedings in the Member State of enforcement prior to recognition and enforcement.
- (10) The procedure established by this Regulation should serve as an additional and optional means for the claimant, who remains free to resort to a procedure provided for by national law. Accordingly, this Regulation neither replaces nor harmonises the existing mechanisms for the recovery of uncontested claims under national law.
- (11) The procedure should be based, to the largest extent possible, on the use of standard forms in any communication between the court and the parties in order to facilitate its administration and enable the use of automatic data processing.
- (12) When deciding which courts are to have jurisdiction to issue a European order for payment, Member States should take due account of the need to ensure access to justice.
- (13) In the application for a European order for payment, the claimant should be obliged to provide information that is sufficient to clearly identify and support the claim in order to place the defendant in a position to make a well-informed choice either to oppose the claim or to leave it uncontested.
- (14) In that context, it should be compulsory for the claimant to include a description of evidence supporting the claim. For that purpose the application form should include as exhaustive a list as possible of types of evidence that are usually produced in support of pecuniary claims.
- (15) The lodging of an application for a European order for payment should entail the payment of any applicable court fees.
- (16) The court should examine the application, including the issue of jurisdiction and the description of evidence, on the basis of the information provided in the application form. This would allow the court to examine *prima facie* the merits of the claim and *inter alia* to exclude clearly unfounded claims or inadmissible applications. The examination should not need to be carried out by a judge.
- (17) There is to be no right of appeal against the rejection of the application. This does not preclude, however, a possible review of the decision rejecting the application at the same level of jurisdiction in accordance with national law.
- (18) The European order for payment should apprise the defendant of his options to pay the amount awarded to the claimant or to send a statement of opposition within a time limit of 30 days if he wishes to contest the claim. In addition to being provided with full information concerning the claim as supplied by the claimant, the defendant should be advised of the legal significance of the European order for payment and in particular of the consequences of leaving the claim uncontested.
- (19) Due to differences between Member States' rules of civil procedure and especially those governing the service of documents, it is necessary to lay down a specific and detailed definition of minimum standards that should apply in the context of the European order for payment procedure. In particular, as regards the fulfilment of those standards, any method based on legal fiction should not be considered sufficient for the service of the European order for payment.
- (20) All the methods of service listed in Articles 13 and 14 are characterised by either complete certainty (Article 13) or a very high degree of likelihood (Article 14) that the document served has reached its addressee.
- (21) Personal service on certain persons other than the defendant himself pursuant to Article 14(1)(a) and (b) should be deemed to meet the requirements of those provisions only if those persons actually accepted/received the European order for payment.
- (22) Article 15 should apply to situations where the defendant cannot represent himself in court, as in the case of a legal person, and where a person authorised to represent him is determined by law, as well as to situations where the defendant has authorised another person, in particular a lawyer, to represent him in the specific court proceedings at issue.
- (23) The defendant may submit his statement of opposition using the standard form set out in this Regulation. However, the courts should take into account any other written form of opposition if it is expressed in a clear manner.
- (24) A statement of opposition filed within the time limit should terminate the European order for payment procedure and should lead to an automatic transfer of the case to ordinary civil proceedings unless the claimant has explicitly requested that the proceedings be terminated in that event. For the purposes of this Regulation the concept of ordinary civil proceedings should not necessarily be interpreted within the meaning of national law.

- (25) After the expiry of the time limit for submitting the statement of opposition, in certain exceptional cases the defendant should be entitled to apply for a review of the European order for payment. Review in exceptional cases should not mean that the defendant is given a second opportunity to oppose the claim. During the review procedure the merits of the claim should not be evaluated beyond the grounds resulting from the exceptional circumstances invoked by the defendant. The other exceptional circumstances could include a situation where the European order for payment was based on false information provided in the application form.
- (26) Court fees covered by Article 25 should not include for example lawyers' fees or costs of service of documents by an entity other than a court.
- (27) A European order for payment issued in one Member State which has become enforceable should be regarded for the purposes of enforcement as if it had been issued in the Member State in which enforcement is sought. Mutual trust in the administration of justice in the Member States justifies the assessment by the court of one Member State that all conditions for issuing a European order for payment are fulfilled to enable the order to be enforced in all other Member States without judicial review of the proper application of minimum procedural standards in the Member State where the order is to be enforced. Without prejudice to the provisions of this Regulation, in particular the minimum standards laid down in Article 22(1) and (2) and Article 23, the procedures for the enforcement of the European order for payment should continue to be governed by national law.
- (28) For the purposes of calculating time limits, Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits <sup>(1)</sup> should apply. The defendant should be advised of this and should be informed that account will be taken of the public holidays of the Member State in which the court issuing the European order for payment is situated.
- (29) Since the objective of this Regulation, namely to establish a uniform rapid and efficient mechanism for the recovery of uncontested pecuniary claims throughout the European Union, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the Regulation, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (30) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(2)</sup>.
- (31) The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community, have given notice of their wish to take part in the adoption and application of this Regulation.
- (32) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark does not take part in the adoption of this Regulation, and is not bound by it or subject to its application,

HAVE ADOPTED THIS REGULATION:

#### Article 1

##### Subject matter

1. The purpose of this Regulation is:
    - (a) to simplify, speed up and reduce the costs of litigation in cross-border cases concerning uncontested pecuniary claims by creating a European order for payment procedure;

and

  - (b) to permit the free circulation of European orders for payment throughout the Member States by laying down minimum standards, compliance with which renders unnecessary any intermediate proceedings in the Member State of enforcement prior to recognition and enforcement.
2. This Regulation shall not prevent a claimant from pursuing a claim within the meaning of Article 4 by making use of another procedure available under the law of a Member State or under Community law.

#### Article 2

##### Scope

1. This Regulation shall apply to civil and commercial matters in cross-border cases, whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters or the liability of the State for acts and omissions in the exercise of State authority ('acta iure imperii').

<sup>(1)</sup> OJ L 124, 8.6.1971, p. 1.

<sup>(2)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

2. This Regulation shall not apply to:
- (a) rights in property arising out of a matrimonial relationship, wills and succession;
  - (b) bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;
  - (c) social security;
  - (d) claims arising from non-contractual obligations, unless:
    - (i) they have been the subject of an agreement between the parties or there has been an admission of debt,
    - or
    - (ii) they relate to liquidated debts arising from joint ownership of property.
3. In this Regulation, the term 'Member State' shall mean Member States with the exception of Denmark.

#### Article 3

##### Cross-border cases

1. For the purposes of this Regulation, a cross-border 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 court seised.
2. Domicile shall be determined in accordance with Articles 59 and 60 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters <sup>(1)</sup>.
3. The relevant moment for determining whether there is a cross-border case shall be the time when the application for a European order for payment is submitted in accordance with this Regulation.

#### Article 4

##### European order for payment procedure

The European order for payment procedure shall be established for the collection of pecuniary claims for a specific amount that have fallen due at the time when the application for a European order for payment is submitted.

#### Article 5

##### Definitions

For the purposes of this Regulation, the following definitions shall apply:

- 1) 'Member State of origin' means the Member State in which a European order for payment is issued;

<sup>(1)</sup> OJ L 12, 16.1.2001, p. 1. Regulation as last amended by Commission Regulation (EC) No 2245/2004 (OJ L 381, 28.12.2004, p. 10).

- 2) 'Member State of enforcement' means the Member State in which enforcement of a European order for payment is sought;
- 3) 'court' means any authority in a Member State with competence regarding European orders for payment or any other related matters;
- 4) 'court of origin' means the court which issues a European order for payment.

#### Article 6

##### Jurisdiction

1. For the purposes of applying this Regulation, jurisdiction shall be determined in accordance with the relevant rules of Community law, in particular Regulation (EC) No 44/2001.
2. However, if the claim relates to a contract concluded by a person, the consumer, for a purpose which can be regarded as being outside his trade or profession, and if the defendant is the consumer, only the courts in the Member State in which the defendant is domiciled, within the meaning of Article 59 of Regulation (EC) No 44/2001, shall have jurisdiction.

#### Article 7

##### Application for a European order for payment

1. An application for a European order for payment shall be made using standard form A as set out in Annex I.
2. The application shall state:
  - (a) the names and addresses of the parties, and, where applicable, their representatives, and of the court to which the application is made;
  - (b) the amount of the claim, including the principal and, where applicable, interest, contractual penalties and costs;
  - (c) if interest on the claim is demanded, the interest rate and the period of time for which that interest is demanded unless statutory interest is automatically added to the principal under the law of the Member State of origin;
  - (d) the cause of the action, including a description of the circumstances invoked as the basis of the claim and, where applicable, of the interest demanded;
  - (e) a description of evidence supporting the claim;
  - (f) the grounds for jurisdiction;

and

  - (g) the cross-border nature of the case within the meaning of Article 3.

3. In the application, the claimant shall declare that the information provided is true to the best of his knowledge and belief and shall acknowledge that any deliberate false statement could lead to appropriate penalties under the law of the Member State of origin.

4. In an Appendix to the application the claimant may indicate to the court that he opposes a transfer to ordinary civil proceedings within the meaning of Article 17 in the event of opposition by the defendant. This does not prevent the claimant from informing the court thereof subsequently, but in any event before the order is issued.

5. The application shall be submitted in paper form or by any other means of communication, including electronic, accepted by the Member State of origin and available to the court of origin.

6. The application shall be signed by the claimant or, where applicable, by his representative. Where the application is submitted in electronic form in accordance with paragraph 5, it shall be signed in accordance with Article 2(2) of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures<sup>(1)</sup>. The signature shall be recognised in the Member State of origin and may not be made subject to additional requirements.

However, such electronic signature shall not be required if and to the extent that an alternative electronic communications system exists in the courts of the Member State of origin which is available to a certain group of pre-registered authenticated users and which permits the identification of those users in a secure manner. Member States shall inform the Commission of such communications systems.

#### Article 8

##### Examination of the application

The court seised of an application for a European order for payment shall examine, as soon as possible and on the basis of the application form, whether the requirements set out in Articles 2, 3, 4, 6 and 7 are met and whether the claim appears to be founded. This examination may take the form of an automated procedure.

#### Article 9

##### Completion and rectification

1. If the requirements set out in Article 7 are not met and unless the claim is clearly unfounded or the application is inadmissible, the court shall give the claimant the opportunity to complete or rectify the application. The court shall use standard form B as set out in Annex II.

<sup>(1)</sup> OJ L 13, 19.1.2000, p. 12.

2. Where the court requests the claimant to complete or rectify the application, it shall specify a time limit it deems appropriate in the circumstances. The court may at its discretion extend that time limit.

#### Article 10

##### Modification of the application

1. If the requirements referred to in Article 8 are met for only part of the claim, the court shall inform the claimant to that effect, using standard form C as set out in Annex III. The claimant shall be invited to accept or refuse a proposal for a European order for payment for the amount specified by the court and shall be informed of the consequences of his decision. The claimant shall reply by returning standard form C sent by the court within a time limit specified by the court in accordance with Article 9(2).

2. If the claimant accepts the court's proposal, the court shall issue a European order for payment, in accordance with Article 12, for that part of the claim accepted by the claimant. The consequences with respect to the remaining part of the initial claim shall be governed by national law.

3. If the claimant fails to send his reply within the time limit specified by the court or refuses the court's proposal, the court shall reject the application for a European order for payment in its entirety.

#### Article 11

##### Rejection of the application

1. The court shall reject the application if:

(a) the requirements set out in Articles 2, 3, 4, 6 and 7 are not met;

or

(b) the claim is clearly unfounded;

or

(c) the claimant fails to send his reply within the time limit specified by the court under Article 9(2);

or

(d) the claimant fails to send his reply within the time limit specified by the court or refuses the court's proposal, in accordance with Article 10.

The claimant shall be informed of the grounds for the rejection by means of standard form D as set out in Annex IV.



2. There shall be no right of appeal against the rejection of the application.

3. The rejection of the application shall not prevent the claimant from pursuing the claim by means of a new application for a European order for payment or of any other procedure available under the law of a Member State.

#### Article 12

##### Issue of a European order for payment

1. If the requirements referred to in Article 8 are met, the court shall issue, as soon as possible and normally within 30 days of the lodging of the application, a European order for payment using standard form E as set out in Annex V.

The 30-day period shall not include the time taken by the claimant to complete, rectify or modify the application.

2. The European order for payment shall be issued together with a copy of the application form. It shall not comprise the information provided by the claimant in Appendices 1 and 2 to form A.

3. In the European order for payment, the defendant shall be advised of his options to:

(a) pay the amount indicated in the order to the claimant;

or

(b) oppose the order by lodging with the court of origin a statement of opposition, to be sent within 30 days of service of the order on him.

4. In the European order for payment, the defendant shall be informed that:

(a) the order was issued solely on the basis of the information which was provided by the claimant and was not verified by the court;

(b) the order will become enforceable unless a statement of opposition has been lodged with the court in accordance with Article 16;

(c) where a statement of opposition is lodged, the proceedings shall continue before the competent courts of the Member State of origin in accordance with the rules of ordinary civil procedure unless the claimant has explicitly requested that the proceedings be terminated in that event.

5. The court shall ensure that the order is served on the defendant in accordance with national law by a method that shall meet the minimum standards laid down in Articles 13, 14 and 15.

#### Article 13

##### Service with proof of receipt by the defendant

The European order for payment may be served on the defendant in accordance with the national law of the State in which the service is to be effected, by one of the following methods:

(a) personal service attested by an acknowledgement of receipt, including the date of receipt, which is signed by the defendant;

(b) personal service attested by a document signed by the competent person who effected the service stating that the defendant has received the document or refused to receive it without any legal justification, and the date of service;

(c) postal service attested by an acknowledgement of receipt, including the date of receipt, which is signed and returned by the defendant;

(d) service by electronic means such as fax or e-mail, attested by an acknowledgement of receipt, including the date of receipt, which is signed and returned by the defendant.

#### Article 14

##### Service without proof of receipt by the defendant

1. The European order for payment may also be served on the defendant in accordance with the national law of the State in which service is to be effected, by one of the following methods:

(a) personal service at the defendant's personal address on persons who are living in the same household as the defendant or are employed there;

(b) in the case of a self-employed defendant or a legal person, personal service at the defendant's business premises on persons who are employed by the defendant;

(c) deposit of the order in the defendant's mailbox;

(d) deposit of the order at a post office or with competent public authorities and the placing in the defendant's mailbox of written notification of that deposit, provided that the written notification clearly states the character of the document as a court document or the legal effect of the notification as effecting service and setting in motion the running of time for the purposes of time limits;

(e) postal service without proof pursuant to paragraph 3 where the defendant has his address in the Member State of origin;

(f) electronic means attested by an automatic confirmation of delivery, provided that the defendant has expressly accepted this method of service in advance.

2. For the purposes of this Regulation, service under paragraph 1 is not admissible if the defendant's address is not known with certainty.

3. Service pursuant to paragraph 1(a), (b), (c) and (d) shall be attested by:

(a) a document signed by the competent person who effected the service, indicating:

(i) the method of service used;

and

(ii) the date of service;

and

(iii) where the order has been served on a person other than the defendant, the name of that person and his relation to the defendant;

or

(b) an acknowledgement of receipt by the person served, for the purposes of paragraphs (1)(a) and (b).

#### Article 15

##### Service on a representative

Service pursuant to Articles 13 or 14 may also be effected on a defendant's representative.

#### Article 16

##### Opposition to the European order for payment

1. The defendant may lodge a statement of opposition to the European order for payment with the court of origin using standard form F as set out in Annex VI, which shall be supplied to him together with the European order for payment.

2. The statement of opposition shall be sent within 30 days of service of the order on the defendant.

3. The defendant shall indicate in the statement of opposition that he contests the claim, without having to specify the reasons for this.

4. The statement of opposition shall be submitted in paper form or by any other means of communication, including electronic, accepted by the Member State of origin and available to the court of origin.

5. The statement of opposition shall be signed by the defendant or, where applicable, by his representative. Where the statement of opposition is submitted in electronic form in accordance with paragraph 4, it shall be signed in accordance with Article 2(2) of Directive 1999/93/EC. The signature shall be recognised in the Member State of origin and may not be made subject to additional requirements.

However, such electronic signature shall not be required if and to the extent that an alternative electronic communications system exists in the courts of the Member State of origin which is available to a certain group of pre-registered authenticated users and which permits the identification of those users in a secure manner. Member States shall inform the Commission of such communications systems.

#### Article 17

##### Effects of the lodging of a statement of opposition

1. If a statement of opposition is entered within the time limit laid down in Article 16(2), the proceedings shall continue before the competent courts of the Member State of origin in accordance with the rules of ordinary civil procedure unless the claimant has explicitly requested that the proceedings be terminated in that event.

Where the claimant has pursued his claim through the European order for payment procedure, nothing under national law shall prejudice his position in subsequent ordinary civil proceedings.

2. The transfer to ordinary civil proceedings within the meaning of paragraph 1 shall be governed by the law of the Member State of origin.

3. The claimant shall be informed whether the defendant has lodged a statement of opposition and of any transfer to ordinary civil proceedings.

#### Article 18

##### Enforceability

1. If within the time limit laid down in Article 16(2), taking into account an appropriate period of time to allow a statement to arrive, no statement of opposition has been lodged with the court of origin, the court of origin shall without delay declare the European order for payment enforceable using standard form G as set out in Annex VII. The court shall verify the date of service.

2. Without prejudice to paragraph 1, the formal requirements for enforceability shall be governed by the law of the Member State of origin.

3. The court shall send the enforceable European order for payment to the claimant.

*Article 19***Abolition of exequatur**

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

*Article 20***Review in exceptional cases**

1. After the expiry of the time limit laid down in Article 16(2) the defendant shall be entitled to apply for a review of the European order for payment before the competent court in the Member State of origin where:

(a) (i) the order for payment was served by one of the methods provided for in Article 14,

and

(ii) service was not effected in sufficient time to enable him to arrange for his defence, without any fault on his part,

or

(b) the defendant was prevented from objecting to the claim by reason of force majeure or due to extraordinary circumstances without any fault on his part,

provided in either case that he acts promptly.

2. After expiry of the time limit laid down in Article 16(2) the defendant shall also be entitled to apply for a review of the European order for payment before the competent court in the Member State of origin where the order for payment was clearly wrongly issued, having regard to the requirements laid down in this Regulation, or due to other exceptional circumstances.

3. If the court rejects the defendant's application on the basis that none of the grounds for review referred to in paragraphs 1 and 2 apply, the European order for payment shall remain in force.

If the court decides that the review is justified for one of the reasons laid down in paragraphs 1 and 2, the European order for payment shall be null and void.

*Article 21***Enforcement**

1. Without prejudice to the provisions of this Regulation, enforcement procedures shall be governed by the law of the Member State of enforcement.

A European order for payment which has become enforceable shall be enforced under the same conditions as an enforceable decision issued in the Member State of enforcement.

2. For enforcement in another Member State, the claimant shall provide the competent enforcement authorities of that Member State with:

(a) a copy of the European order for payment, as declared enforceable by the court of origin, which satisfies the conditions necessary to establish its authenticity;

and

(b) where necessary, a translation of the European order for payment into the official language of the Member State of enforcement or, if there are several official languages in that Member State, the official language or one of the official languages of court proceedings of the place where enforcement is sought, in conformity with the law of that Member State, or into another language that the Member State of enforcement has indicated it can accept. Each Member State may indicate the official language or languages of the institutions of the European Union other than its own which it can accept for the European order for payment. The translation shall be certified by a person qualified to do so in one of the Member States.

3. No security, bond or deposit, however described, shall be required of a claimant who in one Member State applies for enforcement of a European order for payment issued in another Member State on the ground that he is a foreign national or that he is not domiciled or resident in the Member State of enforcement.

*Article 22***Refusal of enforcement**

1. Enforcement shall, upon application by the defendant, be refused by the competent court in the Member State of enforcement if the European order for payment is irreconcilable with an earlier decision or order previously given in any Member State or in a third country, provided that:

(a) the earlier decision or order involved the same cause of action between the same parties;

and

(b) the earlier decision or order fulfils the conditions necessary for its recognition in the Member State of enforcement;

and

(c) the irreconcilability could not have been raised as an objection in the court proceedings in the Member State of origin.

2. Enforcement shall, upon application, also be refused if and to the extent that the defendant has paid the claimant the amount awarded in the European order for payment.

3. Under no circumstances may the European order for payment be reviewed as to its substance in the Member State of enforcement.

#### Article 23

##### Stay or limitation of enforcement

Where the defendant has applied for a review in accordance with Article 20, the competent court in the Member State of enforcement may, upon application by the defendant:

- (a) limit the enforcement proceedings to protective measures;
- or
- (b) make enforcement conditional on the provision of such security as it shall determine;
- or
- (c) under exceptional circumstances, stay the enforcement proceedings.

#### Article 24

##### Legal representation

Representation by a lawyer or another legal professional shall not be mandatory:

- (a) for the claimant in respect of the application for a European order for payment;
- (b) for the defendant in respect of the statement of opposition to a European order for payment.

#### Article 25

##### Court fees

1. The combined court fees of a European order for payment procedure and of the ordinary civil proceedings that ensue in the event of a statement of opposition to a European order for payment in a Member State shall not exceed the court fees of ordinary civil proceedings without a preceding European order for payment procedure in that Member State.

2. For the purposes of this Regulation, court fees shall comprise fees and charges to be paid to the court, the amount of which is fixed in accordance with national law.

#### Article 26

##### Relationship with national procedural law

All procedural issues not specifically dealt with in this Regulation shall be governed by national law.

#### Article 27

##### Relationship with Regulation (EC) No 1348/2000

This Regulation shall not affect the application of Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil and commercial matters <sup>(1)</sup>.

#### Article 28

##### Information relating to service costs and enforcement

Member States shall cooperate to provide the general public and professional circles with information on:

- (a) costs of service of documents;
- and
- (b) which authorities have competence with respect to enforcement for the purposes of applying Articles 21, 22 and 23,

in particular via the European Judicial Network in civil and commercial matters established in accordance with Council Decision 2001/470/EC <sup>(2)</sup>.

#### Article 29

##### Information relating to jurisdiction, review procedures, means of communication and languages

1. By 12 June 2008, Member States shall communicate to the Commission:

- (a) which courts have jurisdiction to issue a European order for payment;
- (b) the review procedure and the competent courts for the purposes of the application of Article 20;
- (c) the means of communication accepted for the purposes of the European order for payment procedure and available to the courts;
- (d) languages accepted pursuant to Article 21(2)(b).

<sup>(1)</sup> OJ L 160, 30.6.2000, p. 37.

<sup>(2)</sup> OJ L 174, 27.6.2001, p. 25.

Member States shall apprise the Commission of any subsequent changes to this information.

2. The Commission shall make the information notified in accordance with paragraph 1 publicly available through publication in the *Official Journal of the European Union* and through any other appropriate means.

#### Article 30

##### Amendments to the Annexes

The standard forms set out in the Annexes shall be updated or technically adjusted, ensuring full conformity with the provisions of this Regulation, in accordance with the procedure referred to in Article 31(2).

#### Article 31

##### Committee

1. The Commission shall be assisted by the committee established by Article 75 of Regulation (EC) No 44/2001.

2. Where reference is made to this paragraph, Article 5a(1)-(4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

3. The Committee shall adopt its Rules of Procedure.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Strasbourg, 12 December 2006.

For the European Parliament  
The President  
J. BORRELL FONTELLES

#### Article 32

##### Review

By 12 December 2013, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a detailed report reviewing the operation of the European order for payment procedure. That report shall contain an assessment of the procedure as it has operated and an extended impact assessment for each Member State.

To that end, and in order to ensure that best practice in the European Union is duly taken into account and reflects the principles of better legislation, Member States shall provide the Commission with information relating to the cross-border operation of the European order for payment. This information shall cover court fees, speed of the procedure, efficiency, ease of use and the internal payment order procedures of the Member States.

The Commission's report shall be accompanied, if appropriate, by proposals for adaptation.

#### Article 33

##### Entry into force

This Regulation shall enter into force on the day following the date of its publication in the *Official Journal of the European Union*.

It shall apply from 12 December 2008, with the exception of Articles 28, 29, 30 and 31 which shall apply from 12 June 2008.

For the Council  
The President  
M. PEKKARINEN

## ANNEX I

**Application for a European order for payment****Form A**

Article 7 (1) of Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure



Please ensure that you read the guidelines on the last page – they will help you to understand this form!

Please note in particular that this form must be completed in the language or one of the languages accepted by the court to be seised. The form is available in all official languages of the European Union; this may help you fill in the form in the required language.

<b>1. Court</b>			Case number (to be completed by the court)	
Court			Received by the court	
Address				
Postal code	City	Country		

<b>2. Parties and their representatives</b>				
Codes: 01 Claimant		03 Claimant's representative *		05 Claimant's legally authorised representative **
02 Defendant		04 Defendant's representative *		06 Defendant's legally authorised representative **
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City
				Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***		Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City
				Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***		Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City
				Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***		Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City
				Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***		Other details ***	
* e.g. lawyer                      ** e.g. parent, guardian, managing director                      *** optional				

**3. Grounds for the court's jurisdiction**

Codes:	01 Domicile of the defendant or co-defendant	07 Domicile of the policyholder, the insured or the beneficiary in insurance matters
	02 Place of performance of the obligation in question	08 Domicile of the consumer
	03 Place of the harmful event	09 Place where the employee carries out his work
	04 Where a dispute arises out of the operations of a branch, agency or other establishment, the place in which the branch, agency or other establishment is situated	10 Place where the business which engaged the employee is situated
	05 Domicile of the trust	11 Place where the immovable property is situated
	06 Where a dispute arises concerning the payment of remuneration claimed in respect of the salvage of a cargo or freight, the place of the court under the authority of which the cargo or freight is or could have been arrested	12 Choice of court agreed by the parties
		13 Domicile of the maintenance creditor
		14 Other (please specify)

Code	Specification only for code 14
------	--------------------------------

**4. Cross-border nature of the case**

Codes:	01 Belgium	06 Spain	11 Lettland	16 The Netherlands	21 Slovakia
	02 Czech Republic	07 France	12 Litauen	17 Austria	22 Finland
	03 Germany	08 Ireland	13 Luxemburg	18 Poland	23 Sweden
	04 Estonia	09 Italy	14 Ungarn	19 Portugal	24 United Kingdom
	05 Greece	10 Cyprus	15 Malta	20 Slovenia	25 other (please specify)

Domicile or habitual residence of claimant	Domicile or habitual residence of defendant	Country of the court
--	---	----------------------

**5. Bank details (optional)****5.1 Payment of court fees by the claimant**

Codes:	01 By bank transfer	02 By credit card	03 Collection by court from claimant's bank account
	04 Legal aid	05 Other (please specify)	

If you choose code 02 or 03, please fill in the bank details in Appendix 1

Code	If you choose code 05, please specify
------	---------------------------------------

**5.2 Payment by defendant of amount awarded**

Account holder	Bank name (BIC) or other relevant bank code
Account number	International bank account number (IBAN)



EUR	Euro	CYP	Cypriot Pound	CZK	Czech Koruna	EEK	Estonian Kroon	GBP	Pound sterling
HUF	Hungarian Forint	LTL	Lithuanian Litas	LVL	Latvian Lats	MTL	Maltese Lira	PLN	Polish Zloty
SEK	Swedish Krona	SIT	Slovenian Tolars	SKK	Slovak Koruna	Other (according to international banking code)			

  

<b>6. Principal</b>					Currency	Total value of principal, excluding interest and costs																																													
<p><b>The claim relates to (Code 1)</b></p> <table border="0"> <tr> <td>01 Sales contract</td> <td>10 Contract of service - repair</td> <td>18 Claims arising from joint ownership of property</td> </tr> <tr> <td>02 Rental agreement - movable property</td> <td>11 Contract of service - brokerage</td> <td>19 Damages - contract</td> </tr> <tr> <td>03 Rental agreement - immovable property</td> <td>12 Contract of service - other (please specify)</td> <td>20 Subscription agreement (newspaper, magazine)</td> </tr> <tr> <td>04 Rental agreement - commercial lease</td> <td>13 Building contract</td> <td>21 Membership fee</td> </tr> <tr> <td>05 Contract of service - electricity, gas, water, phone</td> <td>14 Insurance contract</td> <td>22 Employment agreement</td> </tr> <tr> <td>06 Contract of service - medical services</td> <td>15 Loan</td> <td>23 Out-of-court settlement</td> </tr> <tr> <td>07 Contract of service - transport</td> <td>16 Guarantee or other collateral(s)</td> <td>24 Maintenance agreement</td> </tr> <tr> <td>08 Contract of service - legal, tax, technical advice</td> <td>17 Claims arising from non-contractual obligations if they are subject to an agreement between the parties or an admission of debt (e.g. damages, unjust enrichment)</td> <td>25 Other (please specify)</td> </tr> <tr> <td>09 Contract of service - hotel, restaurant</td> <td></td> <td></td> </tr> </table> <p><b>Circumstances invoked (Code 2)</b></p> <table border="0"> <tr> <td>30 Non-payment</td> <td>33 Non-delivery of goods or services</td> <td>35 Goods or services not in conformity with the order</td> </tr> <tr> <td>31 Insufficient payment</td> <td>34 Delivery of defective goods or poor services</td> <td>36 Other (please specify)</td> </tr> <tr> <td>32 Late payment</td> <td></td> <td></td> </tr> </table> <p><b>Other details (Code 3)</b></p> <table border="0"> <tr> <td>40 Place of purchase</td> <td>43 Date of delivery</td> <td>46 In case of loan, purpose: Consumer credit</td> </tr> <tr> <td>41 Place of delivery</td> <td>44 Type of goods or services concerned</td> <td>47 In case of loan, purpose: Mortgage credit</td> </tr> <tr> <td>42 Date of purchase</td> <td>45 Address of immovable property</td> <td>48 Other detail (please specify)</td> </tr> </table>							01 Sales contract	10 Contract of service - repair	18 Claims arising from joint ownership of property	02 Rental agreement - movable property	11 Contract of service - brokerage	19 Damages - contract	03 Rental agreement - immovable property	12 Contract of service - other (please specify)	20 Subscription agreement (newspaper, magazine)	04 Rental agreement - commercial lease	13 Building contract	21 Membership fee	05 Contract of service - electricity, gas, water, phone	14 Insurance contract	22 Employment agreement	06 Contract of service - medical services	15 Loan	23 Out-of-court settlement	07 Contract of service - transport	16 Guarantee or other collateral(s)	24 Maintenance agreement	08 Contract of service - legal, tax, technical advice	17 Claims arising from non-contractual obligations if they are subject to an agreement between the parties or an admission of debt (e.g. damages, unjust enrichment)	25 Other (please specify)	09 Contract of service - hotel, restaurant			30 Non-payment	33 Non-delivery of goods or services	35 Goods or services not in conformity with the order	31 Insufficient payment	34 Delivery of defective goods or poor services	36 Other (please specify)	32 Late payment			40 Place of purchase	43 Date of delivery	46 In case of loan, purpose: Consumer credit	41 Place of delivery	44 Type of goods or services concerned	47 In case of loan, purpose: Mortgage credit	42 Date of purchase	45 Address of immovable property	48 Other detail (please specify)
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ID	Code 1	Code 2	Code 3	Explanatory statement	Date (or period)	Amount
ID	Code 1	Code 2	Code 3	Explanatory statement	Date (or period)	Amount
ID	Code 1	Code 2	Code 3	Explanatory statement	Date (or period)	Amount
ID	Code 1	Code 2	Code 3	Explanatory statement	Date (or period)	Amount

  

<b>The claim has been assigned to the claimant by (if applicable)</b>			
Surname, first name/Name of company or organisation		Identification code (if applicable)	
Address		Postal code	City
			Country

  

<b>Additional specifications for claims relating to consumer contracts (if applicable)</b>		
The claim concerns matters relating to consumer contracts	If yes, the defendant is the consumer	If yes, the defendant is domiciled within the meaning of Article 59 of Council Regulation (EC) No 44/2001 in the Member State where the court is seised
	yes      no	yes      no
	yes      no	yes      no



**7. Interest****Codes (please combine number with letter):**

01 Statutory		02 Contractual		03 Capitalisation of interest		04 Interest rate on a loan **		05 Amount calculated by the claimant		06 Other ***	
A per year		B per half year		C per quarter		D per month		E Other ***			
ID *	Code	Interest rate (%)		% over base rate (ECB)		on (amount)		Starting from		to	
ID *	Code	Zinssatz (%)		% über dem Basissatz der EZB		auf (Betrag)		Ab		bis	
ID *	Code	Zinssatz (%)		% über dem Basissatz der EZB		auf (Betrag)		Ab		bis	
ID *	Code	Zinssatz (%)		% über dem Basissatz der EZB		auf (Betrag)		Ab		bis	
ID * Please specify in case of Code 6 and/or E											

\* Fill in corresponding claim ID \*\* taken out by the claimant at least in the amount of the principal \*\*\* Please specify

**8. Contractual penalties (if applicable)**

Amount	Please specify

**9. Costs (if applicable)**

Codes:		01 Court fees		02 Other (please specify)	
Code	Specification only for code 02		Currency	Amount	
Code	Specification only for code 02		Currency	Amount	
Code	Specification only for code 02		Currency	Amount	
Code	Specification only for code 02		Currency	Amount	

**10. Evidence available in support of the claim**

Codes:		01 Written evidence		02 Oral evidence		03 Expert evidence		04 Inspection of an object or site		05 Other (please specify)	
ID *	Code	Description of evidence							Date (day/month/year)		
ID *	Code	Description of evidence							Date (day/month/year)		
ID *	Code	Description of evidence							Date (day/month/year)		
ID *	Code	Description of evidence							Date (day/month/year)		

\* Fill in corresponding claim ID

**11. Additional statements and further information (if necessary)**

**I hereby request the court to order the defendant(s) to pay to the claimant(s) the sum of the above principal plus interest, contractual penalties and costs.**

**I declare that to the best of my knowledge and belief the information provided is true.**

**I acknowledge that any deliberate false statement could lead to appropriate penalties under the law of the Member State of origin.**

Done at	Date (day/month/year)	Signature and/or stamp

<b>Appendix 1 to the application for a European order for payment</b>		
<b>Bank details for the purposes of payment of court fees by the claimant</b>		
Code	02 By credit card	03 Collection by court from claimant's bank account
Code	Account holder	Bank name (BIC) or other relevant bank code / Credit card company
Account number / Credit card number		International bank account number (IBAN) / Expiry date and security number of credit card

**Appendix 2 to the application for a European order for payment****Opposition to a transfer to ordinary civil proceedings**

Case number (to be completed if this Appendix is sent to the court separately from the application form)

Done at	Date (day/month/year)	Signature and/or stamp

## GUIDELINES FOR FILLING IN THE APPLICATION FORM

### Important information

This form must be filled in in the language or one of the languages accepted by the court to be seised. Please note that the form is available in all official languages of the European Union; this may help you fill in the form in the required language.

If the defendant lodges an opposition to your claim, proceedings will continue before the competent courts in accordance with the rules of ordinary civil procedure. If you do not wish to continue proceedings in that event, you should also fill in Appendix 2 to this form. This appendix should reach the court before the European order for payment is issued.

If the application concerns a claim against a consumer relating to a consumer contract, it must be lodged with the competent court of the Member State in which the consumer is domiciled. In other cases, the application must be lodged with the court having jurisdiction in accordance with the rules of Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. Information on the rules of jurisdiction can be found on the European Judicial Atlas ([http://ec.europa.eu/justice\\_home/judicialatlascivil/html/index.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/index.htm)).

Please make sure you duly sign and date the form on the last page.

### Guidelines

At the start of each section you will find specific codes that should be inserted, as appropriate, in the relevant boxes.

**1. Court** When deciding which court to choose, you need to consider the grounds for the court's jurisdiction.

**2. Parties and their representatives** This field must identify the parties and their representatives, if any, in accordance with the codes indicated on the form. The box [Identification code] should refer, where applicable, to the special number which solicitors have in certain Member States for the purposes of electronic communication with the court (see Art. 7(6), second subparagraph, of Regulation (EC) No 1896/2006), to the registration number for companies or organisations or to any applicable identification number for natural persons. The box [Other details] may contain any other information that helps to identify the person (e.g. date of birth, position of the named person in the company or organisation concerned). If there are more than four parties and/or representatives, please use field [11].

**3. Grounds for the court's jurisdiction** See 'Important information' above.

**4. Cross-border nature of the case** For you to be allowed to use this European order for payment procedure, at least two of the boxes in this field must refer to different States.

**5. Bank details (optional)** In field [5.1], you may inform the court by what means you intend to pay the court fees. Please note that not all methods of payment in this field are necessarily available at the court to which you are making this application. You should verify which method of payment will be accepted by the court. You can do this by contacting the court concerned or by consulting the website of the European Judicial Network in civil and commercial matters (<http://ec.europa.eu/civiljustice/>). If you choose to pay by credit card or to allow the court to collect the fees from your bank account, you should give the necessary credit card/bank account details in Appendix 1 to this form.

In field [5.2], you may indicate by what means you wish to receive payment from the defendant. If you wish to be paid by bank transfer, please give the necessary bank details.

**6. Principal** This field must contain a description of the principal and the circumstances forming the basis of the claim in accordance with the codes indicated on the form. You need to use an identification number ('ID') for each claim, numbering them from 1 through 4. Each claim must be specified on the line of the box following the ID number, by filling in the relevant numbers of codes 1, 2, and 3. If you need more space, please use field [11]. The box [Date (or period)] refers, for instance, to the date of the contract or harmful event or to the period of the rent.

**7. Interest** If interest is demanded, this should be specified for each claim as identified in field [6] in accordance with the codes indicated on the form. The code must contain both the relevant number (first row of the codes) and the letter (second row of the codes). For instance, if the interest rate has been agreed by contract and covers annual periods, the code is 02A. If interest is demanded up to the decision by the court, the last box [to] should be left blank. Code 01 refers to an interest rate laid down by statute. Code 02 refers to an interest rate agreed by the parties. If you use Code 03 (capitalisation of interest), the amount indicated should be the basis for the remainder of the term to be covered. Capitalisation of interest refers to the situation where the accrued interest is added to the principal and is taken into account for purposes of calculating further interest. Please note that in commercial transactions as referred to in Directive 2000/35/EC of 29 June 2000 on combating late payments, the statutory interest rate is the sum of the interest rate applied by the European Central Bank to its most recent main refinancing operation carried out before the first calendar day of the half-year in question ('the reference rate'), plus at least seven percentage points. For a Member State which is not participating in the third stage of economic and monetary union, the reference rate referred to above is the equivalent rate set at national level (e.g. by the national central bank). In both cases the reference rate in force on the first calendar day of the half-year in question will apply for the following six months (see Art. 3(1)(d) of Directive 2000/35/EC). The 'base rate (ECB)' refers to the interest rate applied by the European Central Bank to its main refinancing operations.

**8. Contractual penalties (if applicable)**

**9. Costs (if applicable)** If reimbursement of costs is demanded, these must be described using the codes indicated on the form. The box [specification] must be used only for code 02, i.e. when reimbursement of costs other than court fees is demanded. These other costs could include, for instance, fees of a claimant's representative or prelitigation costs. If you request reimbursement of the court fees but you do not know the exact amount, you must fill in the box [Code] (01) but you may leave the box [Amount] blank and it will be filled in by the court.

**10. Evidence available in support of the claim** This field must specify the evidence available in support of each claim using the codes indicated on the form. The box [Description of evidence] will contain, for instance, the title, name, date, and/or reference number of the document concerned, the amount mentioned on the document concerned, and/or the name of the witness or expert.

**11. Additional statements and further information (if necessary)** You may use this field if you need more space for any of the fields above or, if necessary, to provide additional information useful to the court. For instance, if there are several defendants each being liable for a portion of the claim, you should indicate here the amount individually owed by each defendant.

**Appendix 1** Here you must indicate the details of your credit card or bank account if you choose to pay the court fees by credit card or if you allow the court to collect the fees from your bank account. Please note that not all methods of payment in this field are necessarily available at the court to which you are making this application. Please note that the information given in Appendix 1 will not be sent to the defendant.

**Appendix 2** Here you must inform the court if you do not wish to continue proceedings in the event of the defendant opposing the claim. If you send this information to the court after having sent the application form, please make sure you fill in the case number given by the court. Please note that the information given in Appendix 2 will not be sent to the defendant.



## ANNEX II

**Request to the claimant to complete and/or rectify an application for a European order for payment****Form B**

Article 9 (1) of Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure



<b>1. Court</b> Court Address Postal code    City    Country			Case number Done at    Date (day/month/year) Signature and/or stamp	
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<b>2. Parties and their representatives</b> Codes:    01 Claimant    03 Claimant's representative *    05 Claimant's legally authorised representative ** 02 Defendant    04 Defendant's representative *    06 Defendant's legally authorised representative **				
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City    Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation***		Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City    Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation***		Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City    Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation***		Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City    Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation***		Other details ***	
* e.g. lawyer    ** e.g. parent, guardian, managing director    *** optional				

**Following the examination of your application for a European order for payment, please complete and/or rectify the attached application as indicated below as soon as possible and in any event by \_\_\_\_/\_\_\_\_/\_\_\_\_**

**Your initial application should be completed and/or rectified in the language or in one of the languages accepted by the court seised.**

**The court will reject the application, under the conditions provided for in the Regulation, if you fail to complete and/or rectify the application within the time limit set out above.**

**Your application has not been filled in in the correct language. Please fill it in in one of the following languages:**

01 Czech	05 Greek	09 Lithuanian	13 Polish	17 Finnish
02 German	06 French	10 Hungarian	14 Portuguese	18 Swedish
03 Estonian	07 Italian	11 Maltese	15 Slovak	19 English
04 Spanish	08 Latvian	12 Dutch	16 Slovene	20 other (please specify)

Language code	Language specification (only for code 20)

**The following items must be completed and/or rectified:**

Codes:

01 Parties and their representatives	04 Bank details	07 Contractual penalties	10 Additional statements
02 Grounds of jurisdiction	05 Principal	08 Costs	11 Signature
03 Cross border nature of the case	06 Interest	09 Evidence	

Code	Please specify
Code	Please specify
Code	Please specify
Code	Please specify
Code	Please specify





**After examination of your application for a European order for payment, the court considers that the necessary requirements are met for only a part of the claim. Therefore, the court proposes the following modification to the application:**

--

**Please send your reply to the court as soon as possible and in any event by \_\_\_\_/\_\_\_\_/\_\_\_\_**

**If you fail to send your reply to the court within the time limit set out above or refuse this proposal, the court will reject your application for a European order for payment, under the conditions provided for in the Regulation, in its entirety.**

**If you accept this proposal, the court will issue a European order for payment for that part of the claim. It depends on the national law of the Member State where the court is seised whether you will be able, in further proceedings, to recover the remaining part of your initial claim not covered by the European order for payment.**

<input type="checkbox"/> I accept the above proposal by the court		<input type="checkbox"/> I refuse the above proposal by the court
Done at	Date (day/month/year)	Surname, first name
		Signature and/or stamp

\_\_\_\_\_

## ANNEX IV

<b>Decision to reject the application for a European order for payment</b> <b>Form D</b>		
Article 11(1) of Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure		

<b>1. Court</b> Court Address Postal code    City    Country			Case number	
			Done at	Date (day/month/year)
			Signature and/or stamp	

<b>2. Parties and their representatives</b> Codes: 01 Claimant                      03 Claimant's representative *                      05 Claimant's legally authorised representative ** 02 Defendant                      04 Defendant's representative *                      06 Defendant's legally authorised representative **				
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City    Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***		Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City    Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***		Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City    Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***		Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address		Postal code	City    Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***		Other details ***	
* e.g. lawyer                      ** e.g. parent, guardian, managing director                      *** optional				

**The court has examined your application for a European order for payment, in accordance with Article 8 of Regulation (EC) No 1896/2006 and rejects it on the following ground(s):**

- 01 The application does not fall within the scope of Article 2 of the Regulation (Article 11(1)(a)).  
02 The application does not concern a cross-border case within the meaning of Article 3 of the Regulation (Article 11(1)(a)).  
03 The application does not concern a pecuniary claim for a specific amount that has fallen due as referred to in Article 4 of the Regulation (Article 11(1)(a)).  
04 The court does not have jurisdiction in accordance with Article 6 of the Regulation (Article 11(1)(a)).  
05 The application does not fulfil the requirements set out in Article 7 of the Regulation (Article 11(1)(a)).  
06 The claim is clearly unfounded (Article 11(1)(b)).  
07 The application was not completed or rectified within the time limit specified by the court (Article 9(2) and Article 11(1)(c)).  
08 The application was not modified within the time limit specified by the court (Article 10 and Article 11(1)(d)).

Ground(s) for rejection (please use code)

Code

Further information, where necessary

Code

Further information, where necessary

Code

Further information, where necessary

Code

Further information, where necessary

**There is no right of appeal against this rejection. However, this does not preclude a new application for a European order for payment or any other procedure available under the law of a Member State.**



EUR	Euro	CYP	Cypriot Pound	CZK	Czech Koruna	EEK	Estonian Kroon	GBP	Pound sterling
HUF	Hungarian Forint	LTL	Lithuanian Litas	LVL	Latvian Lats	MTL	Maltese Lira	PLN	Polish Zloty
SEK	Swedish Krona	SIT	Slovenian Tolars	SKK	Slovak Koruna	Other (according to international banking code)			

**In accordance with Article 12 of Regulation (EC) No 1896/2006, the court has issued this European order for payment on the basis of the attached application. By virtue of this decision, you are ordered to pay the claimant the following amount:**

<b>Defendant 1</b>	Currency	Amount	Date (day/month/year)
Surname, first name/Name of company or organisation			
<b>Principal</b>			
<b>Interest (as of)</b>			
<b>Contractual penalties</b>			
<b>Costs</b>			
<b>Total amount</b>			
<b>Defendant 2</b>	Currency	Amount	Date (day/month/year)
Surname, first name/Name of company or organisation			
<b>Principal</b>			
<b>Interest (as of)</b>			
<b>Contractual penalties</b>			
<b>Costs</b>			
<b>Total amount</b>			
<input type="checkbox"/> <b>Joint liability</b>			

**IMPORTANT INFORMATION FOR THE DEFENDANT****You are hereby advised that:**

- a. You have the option to:
  - i. pay the amount indicated in this order to the claimant; or
  - ii. oppose the order by lodging a statement of opposition with the court that issued this order within the time limit indicated in (b);
- b. The statement of opposition must be sent to the court within 30 days of service of this order on you. This 30-day period starts on the day following that on which this order was served. This period includes Saturdays, Sundays and public holidays. Where the last day of such a period is a Saturday, a Sunday or a public holiday, the period will expire on the following working day (see Council Regulation (EEC, Euratom) No 1182/71 of 3 June 1971 \*). The public holidays to be taken into account are those of the Member State where the court is situated;
- c. This order has been issued solely on the basis of the information provided by the claimant. That information has not been verified by the court;
- d. This order will become enforceable unless a statement of opposition has been lodged with the court within the time limit indicated in (b);
- e. Where a statement of opposition is lodged, the proceedings will continue before the competent courts of the Member State where this order was issued in accordance with the rules of ordinary civil procedure unless the claimant has explicitly requested that the proceedings be terminated in that event.

\* OJ L 124, 8.6.1971, p. 1 (de, fr, it, nl).

English special edition: Series I Chapter 1971(II), p. 354.

Greek special edition: Chapter 01 Volume 1, p. 131.

Portuguese and Spanish special editions: Chapter 01 Volume 1, p. 149.

Finnish and Swedish special editions: Chapter 1 Volume 1, p. 71.

Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Slovak and Slovene special editions: Chapter 01 Volume 1, p. 51.



## ANNEX VI

## Opposition to a European order for payment

Form F

Article 16 (1) of Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure



1. Court			Case number (to be completed by the court)	
Court				
Address			Received by the court	
Postal code	Ort	Land		

2. Parties and their representatives					
Codes:		01 Claimant 02 Defendant		03 Claimant's representative * 04 Defendant's representative *	
				05 Claimant's legally authorised representative ** 06 Defendant's legally authorised representative **	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)	
	Address			Postal code	City
	Phone ***			Fax ***	e-Mail ***
	Occupation ***			Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)	
	Address			Postal code	City
	Phone ***			Fax ***	e-Mail ***
	Occupation ***			Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)	
	Address			Postal code	City
	Phone ***			Fax ***	e-Mail ***
	Occupation ***			Other details ***	
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)	
	Address			Postal code	City
	Phone ***			Fax ***	e-Mail ***
	Occupation ***			Other details ***	

\* e.g. lawyer                      \*\* e.g. parent, guardian, managing director                      \*\*\* optional



I hereby lodge a statement of opposition against the European order for payment issued on ____/____/____		
Done at	Date (day/month/year)	Surname, first name
		Signature and/or stamp

\_\_\_\_\_

## ANNEX VII

**Declaration of enforceability****Form G**

Article 18(1) of Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure



<b>1. Court</b>			<b>Case number</b>	
Court				
Address			<b>Done at</b>	
			Date (day/month/year)	
Postal code	City	Country		
Signature and/or stamp				

<b>2. Parties and their representatives</b>				
Codes: 01 Claimant		03 Claimant's representative *		05 Claimant's legally authorised representative **
02 Defendant		04 Defendant's representative *		06 Defendant's legally authorised representative **
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address	Postal code	City	Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***	Other details ***		
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address	Postal code	City	Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***	Other details ***		
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address	Postal code	City	Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***	Other details ***		
Code	Surname, first name/Name of company or organisation			Identification code (if applicable)
	Address	Postal code	City	Country
	Phone ***	Fax ***	e-Mail ***	
	Occupation ***	Other details ***		
*e.g. lawyer                      ** e.g. parent, guardian, managing director                      *** optional				

The court hereby declares that the attached European order for payment, issued on \_\_\_\_/\_\_\_\_/\_\_\_\_ and served on \_\_\_\_/\_\_\_\_/\_\_\_\_ is enforceable in accordance with Article 18 of Regulation (EC) No 1896/2006.

#### Important information

This European order for payment is automatically enforceable in all Member States of the European Union except Denmark, without the need for an additional declaration of enforceability in the Member State where enforcement is sought and without any possibility of opposing its recognition. The enforcement procedures are governed by the law of the Member State of enforcement, except where the Regulation provides otherwise.

## I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## REGULATIONS

### REGULATION (EC) No 861/2007 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 July 2007 establishing a European Small Claims Procedure

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) and Article 67 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) The Community has set itself the objective of maintaining and developing an area of freedom, security and justice in which the free movement of persons is ensured. For the gradual establishment of such an area, the Community is to adopt, *inter alia*, measures in the field of judicial cooperation in civil matters having cross-border implications and needed for the proper functioning of the internal market.
- (2) According to Article 65(c) of the Treaty, those measures are to include those eliminating obstacles to the good functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States.
- (3) In this respect, the Community has, among other measures, already adopted Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the

Member States of judicial and extrajudicial documents in civil or commercial matters <sup>(3)</sup>, Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters <sup>(4)</sup>, Council Decision 2001/470/EC of 28 May 2001 establishing a European Judicial Network in civil and commercial matters <sup>(5)</sup>, Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims <sup>(6)</sup> 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 <sup>(7)</sup>.

- (4) The European Council meeting in Tampere on 15 and 16 October 1999 invited the Council and the Commission to establish common procedural rules for simplified and accelerated cross-border litigation on small consumer and commercial claims.
- (5) On 30 November 2000, the Council adopted a joint programme of the Commission and the Council of measures for the implementation of the principle of mutual recognition of decisions in civil and commercial matters <sup>(8)</sup>. The programme refers to simplifying and speeding up the settlement of cross-border litigation on small claims. This was taken forward by the Hague Programme <sup>(9)</sup>, adopted by the European Council on 5 November 2004, which called for work on small claims to be actively pursued.

<sup>(3)</sup> OJ L 160, 30.6.2000, p. 37.

<sup>(4)</sup> OJ L 12, 16.1.2001, p. 1. Regulation as amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

<sup>(5)</sup> OJ L 174, 27.6.2001, p. 25.

<sup>(6)</sup> OJ L 143, 30.4.2004, p. 15. Regulation as amended by Commission Regulation (EC) No 1869/2005 (OJ L 300, 17.11.2005, p. 6).

<sup>(7)</sup> OJ L 399, 30.12.2006, p. 1.

<sup>(8)</sup> OJ C 12, 15.1.2001, p. 1.

<sup>(9)</sup> OJ C 53, 3.3.2005, p. 1.

<sup>(1)</sup> OJ C 88, 11.4.2006, p. 61.

<sup>(2)</sup> Opinion of the European Parliament of 14 December 2006 (not yet published in the Official Journal) and Council Decision of 13 June 2007.

- (6) On 20 December 2002, the Commission adopted a Green Paper on a European order for payment procedure and on measures to simplify and speed up small claims litigation. The Green Paper launched a consultation on measures concerning the simplification and the speeding up of small claims litigation.
- (7) Many Member States have introduced simplified civil procedures for small claims since costs, delays and complexities connected with litigation do not necessarily decrease proportionally with the value of the claim. The obstacles to obtaining a fast and inexpensive judgment are exacerbated in cross-border cases. It is therefore necessary to establish a European procedure for small claims (European Small Claims Procedure). The objective of such a procedure should be to facilitate access to justice. The distortion of competition within the internal market due to imbalances with regard to the functioning of the procedural means afforded to creditors in different Member States entails the need for Community legislation that guarantees a level playing-field for creditors and debtors throughout the European Union. It should be necessary to have regard to the principles of simplicity, speed and proportionality when setting the costs of dealing with a claim under the European Small Claims Procedure. It is appropriate that details of the costs to be charged be made public, and that the means of setting any such costs be transparent.
- (8) The European Small Claims Procedure should simplify and speed up litigation concerning small claims in cross-border cases, whilst reducing costs, by offering an optional tool in addition to the possibilities existing under the laws of the Member States, which will remain unaffected. This Regulation should also make it simpler to obtain the recognition and enforcement of a judgment given in the European Small Claims Procedure in another Member State.
- (9) This Regulation seeks to promote fundamental rights and takes into account, in particular, the principles recognised by the Charter of Fundamental Rights of the European Union. The court or tribunal should respect the right to a fair trial and the principle of an adversarial process, in particular when deciding on the necessity of an oral hearing and on the means of taking evidence and the extent to which evidence is to be taken.
- (10) For the purposes of facilitating calculation of the value of a claim, all interest, expenses and disbursements should be disregarded. This should affect neither the power of the court or tribunal to award these in its judgment nor the national rules on the calculation of interest.
- (11) In order to facilitate the commencement of the European Small Claims Procedure, the claimant should make an application by filling in a standard claim form and lodging it with the court or tribunal. The claim form should be submitted only to a court or tribunal that has jurisdiction.
- (12) The claim form should be accompanied, where appropriate, by any relevant supporting documents. However, this does not prevent the claimant from submitting, where appropriate, further evidence during the procedure. The same principle should apply to the response by the defendant.
- (13) The concepts of 'clearly unfounded' in the context of the dismissal of a claim and of 'inadmissible' in the context of the dismissal of an application should be determined in accordance with national law.
- (14) The European Small Claims Procedure should be a written procedure, unless an oral hearing is considered necessary by the court or tribunal or a party so requests. The court or tribunal may refuse such a request. Such refusal may not be contested separately.
- (15) The parties should not be obliged to be represented by a lawyer or another legal professional.
- (16) The concept of 'counterclaim' should be interpreted within the meaning of Article 6(3) of Regulation (EC) No 44/2001 as arising from the same contract or facts on which the original claim was based. Articles 2 and 4 as well as Article 5(3), (4) and (5) should apply, *mutatis mutandis*, to counterclaims.
- (17) In cases where the defendant invokes a right of set-off during the proceedings, such claim should not constitute a counterclaim for the purposes of this Regulation. Therefore, the defendant should not be obliged to use standard Form A, as set out in Annex I, for invoking such a right.
- (18) The Member State addressed for the purposes of the application of Article 6 is the Member State where service is to be effected or to where the document is to be dispatched. In order to reduce costs and delays, documents should be served on the parties primarily by postal service attested by an acknowledgment of receipt, including the date of receipt.
- (19) A party may refuse to accept a document at the time of service or by returning the document within one week if it is not written in, or accompanied by a translation into, the official language of the Member State addressed (or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected or to where the document is to be dispatched) or a language which the addressee understands.

- (20) In the context of oral hearings and the taking of evidence, the Member States should encourage the use of modern communication technology subject to the national law of the Member State where the court or tribunal is situated. The court or tribunal should use the simplest and least costly method of taking evidence.
- (21) The practical assistance to be made available to the parties should include technical information concerning the availability and the filling in of the forms.
- (22) The information about procedural questions can also be given by the court or tribunal staff in accordance with national law.
- (23) As the objective of this Regulation is to simplify and speed up litigation concerning small claims in cross-border cases, the court or tribunal should act as soon as possible even when this Regulation does not prescribe any time limit for a specific phase of the procedure.
- (24) For the purposes of calculating time limits as provided for in this Regulation, Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits <sup>(1)</sup> should apply.
- (25) In order to speed up the recovery of small claims, the judgment should be enforceable notwithstanding any possible appeal and without the condition of the provision of a security except as provided for in this Regulation.
- (26) Any reference in this Regulation to an appeal should include any possible means of appeal available under national law.
- (27) The court or tribunal must include a person qualified to serve as a judge in accordance with national law.
- (28) Whenever the court or tribunal is required to set a time limit, the party concerned should be informed of the consequences of not complying with it.
- (29) The unsuccessful party should bear the costs of the proceedings. The costs of the proceedings should be determined in accordance with national law. Having regard to the objectives of simplicity and cost-effectiveness, the court or tribunal should order that an unsuccessful party be obliged to pay only the costs of the proceedings, including for example any costs resulting from the fact that the other party was represented by a lawyer or another legal professional, or any costs arising from the service or translation of documents, which are proportionate to the value of the claim or which were necessarily incurred.
- (30) In order to facilitate recognition and enforcement, a judgment given in a Member State in the European Small Claims Procedure should be recognised and enforceable in another Member State without the need for a declaration of enforceability and without any possibility of opposing its recognition.
- (31) There should be minimum standards for the review of a judgment in situations where the defendant was not able to contest the claim.
- (32) Having regard to the objectives of simplicity and cost-effectiveness, the party seeking enforcement shall not be required to have an authorised representative or a postal address in the Member State of enforcement, other than with agents having competence for the enforcement procedure in accordance with the national law of that Member State.
- (33) Chapter III of this Regulation should also apply to the determination of costs and expenses made by officers of the court or tribunal due to a judgment given pursuant to the procedure specified in this Regulation.
- (34) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(2)</sup>.
- (35) In particular, power should be conferred on the Commission to adopt measures necessary to update or make technical amendments to the forms set out in the Annexes. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation and/or to supplement this Regulation by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (36) Since the objectives of this Regulation, namely, the establishment of a procedure to simplify and speed up litigation concerning small claims in cross-border cases, and to reduce costs, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of this Regulation, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.

<sup>(1)</sup> OJ L 124, 8.6.1971, p. 1.

<sup>(2)</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

- (37) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom and Ireland have given notice of their wish to take part in the adoption and application of this Regulation.
- (38) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Regulation and is not bound by it or subject to its application,

HAVE ADOPTED THIS REGULATION:

#### CHAPTER I

#### SUBJECT MATTER AND SCOPE

##### Article 1

##### Subject matter

This Regulation establishes a European procedure for small claims (hereinafter referred to as the European Small Claims Procedure), intended to simplify and speed up litigation concerning small claims in cross-border cases, and to reduce costs. The European Small Claims Procedure shall be available to litigants as an alternative to the procedures existing under the laws of the Member States.

This Regulation also eliminates the intermediate proceedings necessary to enable recognition and enforcement, in other Member States, of judgments given in one Member State in the European Small Claims Procedure.

##### Article 2

##### Scope

1. This Regulation shall apply, in cross-border cases, to civil and commercial matters, whatever the nature of the court or tribunal, where the value of a claim does not exceed EUR 2 000 at the time when the claim form is received by the court or tribunal with jurisdiction, excluding all interest, expenses and disbursements. It shall not extend, in particular, to revenue, customs or administrative matters or to the liability of the State for acts and omissions in the exercise of State authority (*acta jure imperii*).
2. This Regulation shall not apply to matters concerning:
  - (a) the status or legal capacity of natural persons;

- (b) rights in property arising out of a matrimonial relationship, maintenance obligations, wills and succession;
- (c) bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;
- (d) social security;
- (e) arbitration;
- (f) employment law;
- (g) tenancies of immovable property, with the exception of actions on monetary claims; or
- (h) violations of privacy and of rights relating to personality, including defamation.

3. In this Regulation, the term 'Member State' shall mean Member States with the exception of Denmark.

##### Article 3

##### Cross-border cases

1. For the purposes of this Regulation, a cross-border 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 court or tribunal seised.
2. Domicile shall be determined in accordance with Articles 59 and 60 of Regulation (EC) No 44/2001.
3. The relevant moment for determining whether there is a cross-border case is the date on which the claim form is received by the court or tribunal with jurisdiction.

#### CHAPTER II

#### THE EUROPEAN SMALL CLAIMS PROCEDURE

##### Article 4

##### Commencement of the Procedure

1. The claimant shall commence the European Small Claims Procedure by filling in standard claim Form A, as set out in Annex I, and lodging it with the court or tribunal with jurisdiction directly, by post or by any other means of communication, such as fax or e-mail, acceptable to the Member State in which the procedure is commenced. The claim form shall include a description of evidence supporting the claim and be accompanied, where appropriate, by any relevant supporting documents.



2. Member States shall inform the Commission which means of communication are acceptable to them. The Commission shall make such information publicly available.

3. Where a claim is outside the scope of this Regulation, the court or tribunal shall inform the claimant to that effect. Unless the claimant withdraws the claim, the court or tribunal shall proceed with it in accordance with the relevant procedural law applicable in the Member State in which the procedure is conducted.

4. Where the court or tribunal considers the information provided by the claimant to be inadequate or insufficiently clear or if the claim form is not filled in properly, it shall, unless the claim appears to be clearly unfounded or the application inadmissible, give the claimant the opportunity to complete or rectify the claim form or to supply supplementary information or documents or to withdraw the claim, within such period as it specifies. The court or tribunal shall use standard Form B, as set out in Annex II, for this purpose.

Where the claim appears to be clearly unfounded or the application inadmissible or where the claimant fails to complete or rectify the claim form within the time specified, the application shall be dismissed.

5. Member States shall ensure that the claim form is available at all courts and tribunals at which the European Small Claims Procedure can be commenced.

#### Article 5

#### Conduct of the Procedure

1. The European Small Claims Procedure shall be a written procedure. The court or tribunal shall hold an oral hearing if it considers this to be necessary or if a party so requests. The court or tribunal may refuse such a request if it considers that with regard to the circumstances of the case, an oral hearing is obviously not necessary for the fair conduct of the proceedings. The reasons for refusal shall be given in writing. The refusal may not be contested separately.

2. After receiving the properly filled in claim form, the court or tribunal shall fill in Part I of the standard answer Form C, as set out in Annex III.

A copy of the claim form, and, where applicable, of the supporting documents, together with the answer form thus filled in, shall be served on the defendant in accordance with Article 13. These documents shall be dispatched within 14 days of receiving the properly filled in claim form.

3. The defendant shall submit his response within 30 days of service of the claim form and answer form, by filling in Part II of standard answer Form C, accompanied, where appropriate, by any relevant supporting documents, and returning it to the court or tribunal, or in any other appropriate way not using the answer form.

4. Within 14 days of receipt of the response from the defendant, the court or tribunal shall dispatch a copy thereof, together with any relevant supporting documents to the claimant.

5. If, in his response, the defendant claims that the value of a non-monetary claim exceeds the limit set out in Article 2(1), the court or tribunal shall decide within 30 days of dispatching the response to the claimant, whether the claim is within the scope of this Regulation. Such decision may not be contested separately.

6. Any counterclaim, to be submitted using standard Form A, and any relevant supporting documents shall be served on the claimant in accordance with Article 13. Those documents shall be dispatched within 14 days of receipt.

The claimant shall have 30 days from service to respond to any counterclaim.

7. If the counterclaim exceeds the limit set out in Article 2(1), the claim and counterclaim shall not proceed in the European Small Claims Procedure but shall be dealt with in accordance with the relevant procedural law applicable in the Member State in which the procedure is conducted.

Articles 2 and 4 as well as paragraphs 3, 4 and 5 of this Article shall apply, *mutatis mutandis*, to counterclaims.

#### Article 6

#### Languages

1. The claim form, the response, any counterclaim, any response to a counterclaim and any description of relevant supporting documents shall be submitted in the language or one of the languages of the court or tribunal.

2. If any other document received by the court or tribunal is not in the language in which the proceedings are conducted, the court or tribunal may require a translation of that document only if the translation appears to be necessary for giving the judgment.

3. Where a party has refused to accept a document because it is not in either of the following languages:

- (a) the official language of the Member State addressed, or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected or to where the document is to be dispatched; or
- (b) a language which the addressee understands,

the court or tribunal shall so inform the other party with a view to that party providing a translation of the document.

*Article 7***Conclusion of the Procedure**

1. Within 30 days of receipt of the response from the defendant or the claimant within the time limits laid down in Article 5(3) or (6), the court or tribunal shall give a judgment, or:

- (a) demand further details concerning the claim from the parties within a specified period of time, not exceeding 30 days;
- (b) take evidence in accordance with Article 9; or
- (c) summon the parties to an oral hearing to be held within 30 days of the summons.

2. The court or tribunal shall give the judgment either within 30 days of any oral hearing or after having received all information necessary for giving the judgment. The judgment shall be served on the parties in accordance with Article 13.

3. If the court or tribunal has not received an answer from the relevant party within the time limits laid down in Article 5(3) or (6), it shall give a judgment on the claim or counterclaim.

*Article 8***Oral hearing**

The court or tribunal may hold an oral hearing through video conference or other communication technology if the technical means are available.

*Article 9***Taking of evidence**

1. The court or tribunal shall determine the means of taking evidence and the extent of the evidence necessary for its judgment under the rules applicable to the admissibility of evidence. The court or tribunal may admit the taking of evidence through written statements of witnesses, experts or parties. It may also admit the taking of evidence through video conference or other communication technology if the technical means are available.

2. The court or tribunal may take expert evidence or oral testimony only if it is necessary for giving the judgment. In making its decision, the court or tribunal shall take costs into account.

3. The court or tribunal shall use the simplest and least burdensome method of taking evidence.

*Article 10***Representation of parties**

Representation by a lawyer or another legal professional shall not be mandatory.

*Article 11***Assistance for the parties**

The Member States shall ensure that the parties can receive practical assistance in filling in the forms.

*Article 12***Remit of the court or tribunal**

1. The court or tribunal shall not require the parties to make any legal assessment of the claim.

2. If necessary, the court or tribunal shall inform the parties about procedural questions.

3. Whenever appropriate, the court or tribunal shall seek to reach a settlement between the parties.

*Article 13***Service of documents**

1. Documents shall be served by postal service attested by an acknowledgement of receipt including the date of receipt.

2. If service in accordance with paragraph 1 is not possible, service may be effected by any of the methods provided for in Articles 13 or 14 of Regulation (EC) No 805/2004.

*Article 14***Time limits**

1. Where the court or tribunal sets a time limit, the party concerned shall be informed of the consequences of not complying with it.

2. The court or tribunal may extend the time limits provided for in Article 4(4), Article 5(3) and (6) and Article 7(1), in exceptional circumstances, if necessary in order to safeguard the rights of the parties.

3. If, in exceptional circumstances, it is not possible for the court or tribunal to respect the time limits provided for in Article 5(2) to (6) and Article 7, it shall take the steps required by those provisions as soon as possible.

*Article 15***Enforceability of the judgment**

1. The judgment shall be enforceable notwithstanding any possible appeal. The provision of a security shall not be required.

2. Article 23 shall also apply in the event that the judgment is to be enforced in the Member State where the judgment was given.

## Article 16

**Costs**

The unsuccessful party shall bear the costs of the proceedings. However, the court or tribunal shall not award costs to the successful party to the extent that they were unnecessarily incurred or are disproportionate to the claim.

## Article 17

**Appeal**

1. Member States shall inform the Commission whether an appeal is available under their procedural law against a judgment given in the European Small Claims Procedure and within what time limit such appeal shall be lodged. The Commission shall make that information publicly available.

2. Article 16 shall apply to any appeal.

## Article 18

**Minimum standards for review of the judgment**

1. The defendant shall be entitled to apply for a review of the judgment given in the European Small Claims Procedure before the court or tribunal with jurisdiction of the Member State where the judgment was given where:

- (a) (i) the claim form or the summons to an oral hearing were served by a method without proof of receipt by him personally, as provided for in Article 14 of Regulation (EC) No 805/2004; and
  - (ii) service was not effected in sufficient time to enable him to arrange for his defence without any fault on his part,
- or
- (b) the defendant was prevented from objecting to the claim by reason of *force majeure*, or due to extraordinary circumstances without any fault on his part,

provided in either case that he acts promptly.

2. If the court or tribunal rejects the review on the basis that none of the grounds referred to in paragraph 1 apply, the judgment shall remain in force.

If the court or tribunal decides that the review is justified for one of the reasons laid down in paragraph 1, the judgment given in the European Small Claims Procedure shall be null and void.

## Article 19

**Applicable procedural law**

Subject to the provisions of this Regulation, the European Small Claims Procedure shall be governed by the procedural law of the Member State in which the procedure is conducted.

## CHAPTER III

**RECOGNITION AND ENFORCEMENT IN ANOTHER MEMBER STATE**

## Article 20

**Recognition and enforcement**

1. A judgment given in a Member State in the European Small Claims Procedure shall be recognised and enforced in another Member State without the need for a declaration of enforceability and without any possibility of opposing its recognition.

2. At the request of one of the parties, the court or tribunal shall issue a certificate concerning a judgment in the European Small Claims Procedure using standard Form D, as set out in Annex IV, at no extra cost.

## Article 21

**Enforcement procedure**

1. Without prejudice to the provisions of this Chapter, the enforcement procedures shall be governed by the law of the Member State of enforcement.

Any judgment given in the European Small Claims Procedure shall be enforced under the same conditions as a judgment given in the Member State of enforcement.

2. The party seeking enforcement shall produce:

- (a) a copy of the judgment which satisfies the conditions necessary to establish its authenticity; and
- (b) a copy of the certificate referred to in Article 20(2) and, where necessary, the translation thereof into the official language of the Member State of enforcement or, if there are several official languages in that Member State, the official language or one of the official languages of court or tribunal proceedings of the place where enforcement is sought in conformity with the law of that Member State, or into another language that the Member State of enforcement has indicated it can accept. Each Member State may indicate the official language or languages of the institutions of the European Union other than its own which it can accept for the European Small Claims Procedure. The content of Form D shall be translated by a person qualified to make translations in one of the Member States.

3. The party seeking the enforcement of a judgment given in the European Small Claims Procedure in another Member State shall not be required to have:

- (a) an authorised representative; or
- (b) a postal address

in the Member State of enforcement, other than with agents having competence for the enforcement procedure.

4. No security, bond or deposit, however described, shall be required of a party who in one Member State applies for enforcement of a judgment given in the European Small Claims Procedure in another Member State on the ground that he is a foreign national or that he is not domiciled or resident in the Member State of enforcement.

#### Article 22

##### Refusal of enforcement

1. Enforcement shall, upon application by the person against whom enforcement is sought, be refused by the court or tribunal with jurisdiction in the Member State of enforcement if the judgment given in the European Small Claims Procedure is irreconcilable with an earlier judgment given in any Member State or in a third country, provided that:

- (a) the earlier judgment involved the same cause of action and was between the same parties;
- (b) the earlier judgment was given in the Member State of enforcement or fulfils the conditions necessary for its recognition in the Member State of enforcement; and
- (c) the irreconcilability was not and could not have been raised as an objection in the court or tribunal proceedings in the Member State where the judgment in the European Small Claims Procedure was given.

2. Under no circumstances may a judgment given in the European Small Claims Procedure be reviewed as to its substance in the Member State of enforcement.

#### Article 23

##### Stay or limitation of enforcement

Where a party has challenged a judgment given in the European Small Claims Procedure or where such a challenge is still possible, or where a party has made an application for review within the meaning of Article 18, the court or tribunal with jurisdiction or the competent authority in the Member State of enforcement may, upon application by the party against whom enforcement is sought:

- (a) limit the enforcement proceedings to protective measures;
- (b) make enforcement conditional on the provision of such security as it shall determine; or
- (c) under exceptional circumstances, stay the enforcement proceedings.

#### CHAPTER IV

##### FINAL PROVISIONS

#### Article 24

##### Information

The Member States shall cooperate to provide the general public and professional circles with information on the European Small Claims Procedure, including costs, in particular by way of the European Judicial Network in Civil and Commercial Matters established in accordance with Decision 2001/470/EC.

#### Article 25

##### Information relating to jurisdiction, means of communication and appeals

1. By 1 January 2008 the Member States shall communicate to the Commission:

- (a) which courts or tribunals have jurisdiction to give a judgment in the European Small Claims Procedure;
- (b) which means of communication are accepted for the purposes of the European Small Claims Procedure and available to the courts or tribunals in accordance with Article 4(1);
- (c) whether an appeal is available under their procedural law in accordance with Article 17 and with which court or tribunal this may be lodged;
- (d) which languages are accepted pursuant to Article 21(2)(b); and
- (e) which authorities have competence with respect to enforcement and which authorities have competence for the purposes of the application of Article 23.

Member States shall apprise the Commission of any subsequent changes to this information.

2. The Commission shall make the information notified in accordance with paragraph 1 publicly available through publication in the *Official Journal of the European Union* and through any other appropriate means.

#### Article 26

##### Implementing measures

The measures designed to amend non-essential elements of this Regulation, including by supplementing it, relating to updates or technical amendments to the forms in the Annexes shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(2).

*Article 27***Committee**

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

*Article 28***Review**

By 1 January 2014, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a detailed report reviewing the operation of the European Small Claims Procedure, including the limit of the value of the claim referred to in Article 2(1). That report shall contain an assessment of the procedure as it has operated and an extended impact assessment for each Member State.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Strasbourg, 11 July 2007.

*For the European Parliament*

*The President*

H.-G. PÖTTERING

*For the Council*

*The President*

M. LOBO ANTUNES

To that end and in order to ensure that best practice in the European Union is duly taken into account and reflects the principles of better legislation, Member States shall provide the Commission with information relating to the cross-border operation of the European Small Claims Procedure. This information shall cover court fees, speed of the procedure, efficiency, ease of use and the internal small claims procedures of the Member States.

The Commission's report shall be accompanied, if appropriate, by proposals for adaptation.

*Article 29***Entry into force**

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2009, with the exception of Article 25, which shall apply from 1 January 2008.

## ANNEX I

## EUROPEAN SMALL CLAIMS PROCEDURE

## FORM A

## CLAIM FORM

(Article 4(1) of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure)

Case number (\*):

Received by the court/tribunal on: \_\_\_\_/\_\_\_\_/\_\_\_\_ (\*)

(\*) To be filled in by the court/tribunal.

## IMPORTANT INFORMATION

PLEASE READ THE GUIDELINES AT THE BEGINNING OF EACH SECTION – THEY WILL HELP YOU TO FILL IN THIS FORM

**Language**

Fill in this form in the language of the court/tribunal to which you are sending your application. Please note that the form is available in all official languages of the institutions of the European Union on the website of the European Judicial Atlas at [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/index\\_en.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/index_en.htm). This may help you in filling in the form in the required language.

**Supporting documents**

Please note that the claim form should be accompanied, where appropriate, by any relevant supporting documents. However, this does not prevent you from submitting, where appropriate, further evidence during the procedure.

A copy of the claim form and, where appropriate, of the supporting documents, will be served on the defendant. The defendant will have an opportunity to submit a response.

**1. Court/tribunal**

In this field you should identify the court/tribunal before which you are making your claim. When deciding which court/tribunal to choose, you need to consider the grounds for the court's/tribunal's jurisdiction. A non-exhaustive list of possible grounds of jurisdiction is included in section 4.

**1. Before which court/tribunal are you making your claim?**

1.1. Name:

1.2. Street and number/PO box:

1.3. City and postal code:

1.4. Country:

**2. Claimant**

This field must identify you as the claimant and your representative, if any. Please note that it is not mandatory to be represented by a lawyer or another legal professional.

It may not be sufficient in some countries to give only a PO Box as the address and you should therefore include the street name and number with a postcode. Failure to do so may result in the document not being served.

'Other details' may contain information that helps to identify you, for example, your date of birth, occupation, position in the company, personal ID code and the company registry code in certain Member States.

Where there is more than one claimant, please use additional sheets.

**2. The claimant's details**

- 2.1. Surname, first name/name of company or organisation:
- 2.2. Street and number/PO box:
- 2.3. City and postal code:
- 2.4. Country:
- 2.5. Telephone (\*):
- 2.6. E-mail (\*):
- 2.7. Claimant's representative, if any, and contact details (\*):
- 2.8. Other details (\*):

**3. Defendant**

In this field you should identify the defendant and, if known, his representative. Please note that it is not mandatory for the defendant to be represented by a lawyer or another legal professional.

It may not be sufficient in some countries to give only a P.O. Box as the address and therefore you should include the street name and number with a postcode. Failure to do so may result in the document not being served.

'Other details' may contain information that helps to identify the person, for example the date of birth, occupation, position in the company, personal ID code and company registry code in certain Member States. If there is more than one defendant, please use additional sheets.

**3. The defendant's details**

- 3.1. Surname, first name/name of company or organisation:
- 3.2. Street and number/PO box:
- 3.3. City and postal code:
- 3.4. Country:
- 3.5. Telephone (\*):
- 3.6. E-mail (\*):
- 3.7. Defendant's representative, if known, and contact details (\*):
- 3.8. Other details (\*):

**4. Jurisdiction**

Your application must be lodged with the court/tribunal that has jurisdiction to deal with it. The court/tribunal must have jurisdiction in accordance with the rules of Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

This section includes a non-exhaustive list of possible grounds for jurisdiction.

Information on the rules of jurisdiction can be found on the website of the European Judicial Atlas at [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/index\\_en.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/index_en.htm).

You can also look at [http://ec.europa.eu/civiljustice/glossary/glossary\\_en.htm](http://ec.europa.eu/civiljustice/glossary/glossary_en.htm) for an explanation of some of the legal terms employed.

(\*) Optional.



4. *On what ground do you consider the court/tribunal to have jurisdiction?*

- 4.1. Domicile of the defendant ☐
- 4.2. Domicile of the consumer ☐
- 4.3. Domicile of the policyholder, the insured or the beneficiary in insurance matters ☐
- 4.4. Place of performance of the obligation in question ☐
- 4.5. Place of the harmful event ☐
- 4.6. Place where the immovable property is situated ☐
- 4.7. Choice of court/tribunal agreed by the parties ☐
- 4.8. Other (please specify): \_\_\_\_\_

5. *Cross-border nature of the case*

In order to make use of the European Small Claims Procedure, your case must be of a cross-border nature. A case is of a cross-border nature if at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court/tribunal.

5. *Cross-border nature of the case*

- 5.1. Country of domicile or habitual residence of claimant: \_\_\_\_\_
- 5.2. Country of domicile or habitual residence of defendant: \_\_\_\_\_
- 5.3. Member State of the court/tribunal: \_\_\_\_\_

6. *Bank details (optional)*

In field 6.1. you may inform the court/tribunal by which means you intend to pay the application fee. Please note that not all methods are necessarily available at the court/tribunal to which you are sending your application. You should verify which methods of payment will be accepted by the court/tribunal. You can do this by contacting the court/tribunal concerned or by consulting the website of the European Judicial Network in Civil and Commercial Matters at <http://ec.europa.eu/civiljustice>.

If you choose to pay by credit card or to allow the court/tribunal to collect the fee from your bank account, you should give the necessary credit card or bank account details in the Appendix to this form. The Appendix will be for the information of the court/tribunal only and will not be forwarded to the defendant.

In field 6.2. you are given the possibility of indicating by which means you wish to receive payment from the defendant, for example if the defendant wishes to pay immediately even before the judgment is given. If you wish to be paid by bank transfer, please give the necessary bank details.

6. *Bank details (\*)*

- 6.1. How will you pay the application fee?
- 6.1.1. By bank transfer ☐
- 6.1.2. By credit card ☐ (please fill in the Appendix)
- 6.1.3. Direct debit from your bank account ☐ (please fill in the Appendix)
- 6.1.4. Other (please specify): \_\_\_\_\_
- 6.2. To which account do you wish the defendant to pay any amount claimed or awarded?
- 6.2.1. Account holder: \_\_\_\_\_
- 6.2.2. Bank name, BIC or other relevant bank code: \_\_\_\_\_
- 6.2.3. Account number/IBAN: \_\_\_\_\_

### 7. Claim

**Scope:** Please note that the European Small Claims Procedure has a limited scope. No claims of a value higher than EUR 2000 or which are listed in Article 2 of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure can be dealt with under this procedure. If your claim does not relate to an action within the scope of that Regulation in accordance with Article 2, proceedings will continue before the courts/tribunals with jurisdiction in accordance with the rules of ordinary civil procedure. If you do not wish to continue proceedings in that event, you should withdraw your application.

**Monetary or other claim:** You should indicate whether you are claiming money and/or something else (non-monetary claim), for example, delivery of goods, and then fill in respectively either 7.1. and/or 7.2. If your claim is not for money, please indicate the estimated value of your claim. In the case of a non-monetary claim, you should indicate whether you have a secondary claim for compensation if it is not possible to satisfy the original claim.

If you wish to claim the costs of the proceedings (e.g. translation costs, lawyers' fees, costs relating to the service of documents etc.), then you should indicate this in 7.3. Please note that rules regarding the costs which courts/tribunals can award vary between different Member States. Details of categories of costs in the Member States can be found on the website of the European Judicial Network in Civil and Commercial Matters at <http://ec.europa.eu/civiljustice>.

If you wish to claim any contractual interest, for example on a loan, you should indicate the rate and from what date it runs. The court/tribunal may award statutory interest on your claim, if you are successful. If you wish to claim interest, please indicate this and the date from which the interest should run.

#### 7. About your claim

##### ☐ 7.1. Claim for money

7.1.1. Amount of principal (excluding interest and costs): \_\_\_\_\_

7.1.2. Currency

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Euro (EUR)             | <input type="checkbox"/> Bulgarian lev (BGN)  | <input type="checkbox"/> Cypriot pound (CYP)    |
| <input type="checkbox"/> Czech koruna (CZK)     | <input type="checkbox"/> Estonian kroon (EEK) | <input type="checkbox"/> Pound Sterling (GBP)   |
| <input type="checkbox"/> Hungarian forint (HUF) | <input type="checkbox"/> Latvian lats (LVL)   | <input type="checkbox"/> Lithuanian litas (LTL) |
| <input type="checkbox"/> Maltese lira (MTL)     | <input type="checkbox"/> Polish zloty (PLN)   | <input type="checkbox"/> Romanian leu (RON)     |
| <input type="checkbox"/> Swedish kronor (SEK)   | <input type="checkbox"/> Slovak koruna (SKK)  |   |

☐ Other (please specify): \_\_\_\_\_

##### ☐ 7.2. Other claim:

7.2.1. Please specify what you are claiming: \_\_\_\_\_

7.2.2. Estimated value of the claim: \_\_\_\_\_

Currency:

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Euro (EUR)             | <input type="checkbox"/> Bulgarian lev (BGN)  | <input type="checkbox"/> Cypriot pound (CYP)    |
| <input type="checkbox"/> Czech koruna (CZK)     | <input type="checkbox"/> Estonian kroon (EEK) | <input type="checkbox"/> Pound Sterling (GBP)   |
| <input type="checkbox"/> Hungarian forint (HUF) | <input type="checkbox"/> Latvian lats (LVL)   | <input type="checkbox"/> Lithuanian litas (LTL) |
| <input type="checkbox"/> Maltese lira (MTL)     | <input type="checkbox"/> Polish zloty (PLN)   | <input type="checkbox"/> Romanian leu (RON)     |
| <input type="checkbox"/> Swedish kronor (SEK)   | <input type="checkbox"/> Slovak koruna (SKK)  |   |

☐ Other (please specify): \_\_\_\_\_

##### 7.3. Are you claiming the costs of proceedings?

7.3.1. Yes ☐

7.3.2. No ☐

7.3.3. If yes, please specify which costs and indicate the amount claimed or incurred so far:

7.4. Are you claiming interest?		
Yes	<input type="checkbox"/>	
No	<input type="checkbox"/>	
If yes, is the interest:		
Contractual?	<input type="checkbox"/>	If so, go to 7.4.1
Statutory?	<input type="checkbox"/>	If so, go to 7.4.2
7.4.1. If contractual		
(1) the rate is:		
	<input type="checkbox"/>	_____ %
	<input type="checkbox"/>	_____ % above the base rate of the ECB
	<input type="checkbox"/>	other: _____
(2) the interest should run from: ____/____/____ (date)		
7.4.2. If statutory		
the interest should run from: ____/____/____ (date)		

8. *Details of claim*

In 8.1. you should describe briefly the substance of your claim.

In 8.2. you should describe any relevant supporting evidence. This could, for example, be written evidence (e.g. contracts, receipts, etc.) or oral or written statements from witnesses. For each piece of evidence, please indicate which aspect of your claim it is intended to support.

If space is insufficient, you can add additional sheets.

8. <i>Details of claim</i>		
8.1. Please give reasons for your claim, for example what happened, where and when.		
8.2. Please describe the evidence you wish to put forward to support your claim and state which points of the claim it supports. Where appropriate, you should add relevant supporting documents.		
8.2.1. Written evidence	<input type="checkbox"/>	please specify below
8.2.2. Witnesses	<input type="checkbox"/>	please specify below
8.2.3. Other	<input type="checkbox"/>	please specify below

*Oral hearing:* Please note that the European Small Claims Procedure is a written procedure. However, you can request, in this form or at a later stage, that an oral hearing be held. The court/tribunal may decide to hold an oral hearing if it considers it necessary for the fair conduct of the proceedings or it may refuse it, having regard to all the circumstances of the case.

8.3. Do you want an oral hearing to be held?	
Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
If yes, please indicate reasons (*)	

9. *Certificate*

A judgment given in a Member State in the European Small Claims Procedure can be recognised and enforced in another Member State. If you intend to ask for recognition and enforcement in a Member State other than that of the court/tribunal, you can request in this form that the court/tribunal, after having made a decision in your favour, issue a certificate concerning that judgment.

9. *Certificate*

I ask the court/tribunal to issue a certificate concerning the judgment

Yes ☐

No ☐

10. *Date and signature*

Please make sure that you write your name clearly and sign and date your application at the end.

10. *Date and signature*

I hereby request that the court/tribunal give a judgment against the defendant on the basis of my claim.

I declare that the information provided is true to the best of my knowledge and is given in good faith.

Done at: \_\_\_\_\_

Date: \_\_/\_\_/\_\_\_\_

Name and signature:

*Appendix to the claim form (Form A)***Bank details (\*) for the purposes of payment of the application fee**

Account holder/credit card holder:

Bank name, BIC or other relevant bank code/credit card company:

Account number or IBAN/credit card number, expiry date and security number of the credit card:

(\*) Optional.

## ANNEX II

## EUROPEAN SMALL CLAIMS PROCEDURE

## FORM B

## REQUEST BY THE COURT OR TRIBUNAL TO COMPLETE AND/OR RECTIFY THE CLAIM FORM

(Article 4(4) of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure)

To be filled in by the court/tribunal

Case number:

Received by the court/tribunal on: \_\_\_\_/\_\_\_\_/\_\_\_\_.

1. *Court/tribunal*

1.1. Name:

1.2. Street and number/PO box:

1.3. City and postal code:

1.4. Country:

2. *Claimant*

2.1. Surname, first name/name of company or organisation:

2.2. Street and number/PO box:

2.3. City and postal code:

2.4. Country:

2.5. Telephone (\*):

2.6. E-mail (\*):

2.7. Claimant's representative, if any, and contact details (\*):

2.8. Other details (\*):

3. *Defendant*

3.1. Surname, first name/name of company or organisation:

3.2. Street and number/PO box:

3.3. City and postal code:

3.4. Country:

3.5. Telephone (\*):

3.6. E-mail (\*):

3.7. Defendant's representative, if any, and contact details (\*):

3.8. Other details (\*):

(\*) Optional.

The court/tribunal has examined your claim form and considers it to be inadequate or insufficiently clear or not properly filled in: please complete and/or rectify your form in the language of the court/tribunal as indicated below as soon as possible and at the latest by \_\_\_\_\_.

The court/tribunal shall dismiss your application under the conditions provided for in Regulation (EC) No 861(\*)/2007 if you fail to complete and/or rectify it within the time limit set out above.

Your claim form has not been filled in the correct language. Please fill it in one of the following languages.

Bulgarian	<input type="checkbox"/>	Czech	<input type="checkbox"/>	German	<input type="checkbox"/>
Estonian	<input type="checkbox"/>	Spanish	<input type="checkbox"/>	Greek	<input type="checkbox"/>
French	<input type="checkbox"/>	Irish	<input type="checkbox"/>	Italian	<input type="checkbox"/>
Latvian	<input type="checkbox"/>	Lithuanian	<input type="checkbox"/>	Hungarian	<input type="checkbox"/>
Maltese	<input type="checkbox"/>	Dutch	<input type="checkbox"/>	Polish	<input type="checkbox"/>
Portuguese	<input type="checkbox"/>	Romanian	<input type="checkbox"/>	Slovak	<input type="checkbox"/>
Slovene	<input type="checkbox"/>	Finnish	<input type="checkbox"/>	Swedish	<input type="checkbox"/>
English	<input type="checkbox"/>	Other: (please specify)	_____		

The following sections of the claim form must be completed and/or rectified as stated below:

—  
—  
—  
—

Done at:

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Signature and/or stamp:



## ANNEX III

## EUROPEAN SMALL CLAIMS PROCEDURE

## FORM C

## ANSWER FORM

(Article 5(2) and 5(3) of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure)

## IMPORTANT INFORMATION AND GUIDELINES FOR THE DEFENDANT

A claim as set out in the attached claim form has been submitted against you using the European Small Claims Procedure.

You can answer by filling in Part II of this form and returning it to the court/tribunal, or in any other appropriate way, within 30 days after the claim form has been served on you together with the answer form.

Please note that if you do not answer within 30 days, the court/tribunal shall give a judgment.

Please make sure that you write your name clearly and sign and date the answer form at the end.

You should also read the guidelines included in the claim form; these may help you to prepare your response.

*Language:* You should reply to the claim in the language of the court/tribunal which has sent you this form.

Please note that the form is available in all official languages of the institutions of the European Union on the website of the European Judicial Atlas at [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/index\\_en.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/index_en.htm). This may help you in filling in the form in the required language.

*Oral hearing:* Please note that the European Small Claims Procedure is a written procedure. However, you can ask for an oral hearing to be held. Please be aware that having regard to the circumstances of the case, the court/tribunal can refuse this request.

*Supporting documents:* You can indicate possible means of evidence, and add, where appropriate, supporting documents.

*Counterclaim:* If you want to make a claim against the claimant (counterclaim), you should fill in and attach a separate Form A which you can find on the Internet at [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/fillinginformation\\_en.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/fillinginformation_en.htm) or obtain from the court/tribunal which sent you this form. Please note that for the purposes of the counterclaim you are considered to be the claimant.

*Correcting your details:* You can also correct or supplement information about yourself (e.g. contact details, representative etc.) in section 6 'Other information'.

*Extra space:* If space is insufficient, you can add additional sheets.

**Part I** (to be filled in by the court/tribunal)

Name of claimant:

Name of defendant:

Court/tribunal:

Claim:

Case number:

**Part II** (to be filled in by the defendant)

1. Do you accept the claim?
  - Yes ☐
  - No ☐
  - Partially ☐

If you have answered 'no' or 'partially', please indicate reasons:

The claim is outside the scope of the European Small Claims Procedure ☐  
please specify below

Other ☐  
please specify below
2. If you do not accept the claim please describe the evidence you wish to put forward to contest it. Please state which points of your answer the evidence supports. Where appropriate, you should add relevant supporting documents.
  - 2.1. Written evidence ☐ please specify below
  - 2.2. Witnesses ☐ please specify below
  - 2.3. Other ☐ please specify below
3. Do you want an oral hearing to be held?
  - Yes ☐
  - No ☐

If yes, please indicate reasons (\*):
4. Are you claiming the costs of proceedings?
  - 4.1. Yes ☐
  - 4.2. No ☐
  - 4.3. If yes, please specify which costs and if possible, indicate the amount claimed or incurred so far:
5. Do you want to make a counterclaim?
  - 5.1. Yes ☐
  - 5.2. No ☐
  - 5.3. If yes, please fill in and attach a separate Form A
6. Other information (\*)
7. Date and signature
 

I declare that the information provided is true to the best of my knowledge and is given in good faith.

Done at: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Name and signature:

(\*) Optional.

## ANNEX IV

## EUROPEAN SMALL CLAIMS PROCEDURE

## FORM D

## CERTIFICATE CONCERNING A JUDGMENT IN THE EUROPEAN SMALL CLAIMS PROCEDURE

(Article 20(2) of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure)

To be filled in by the court/tribunal

1. *Court/tribunal*
  - 1.1. Name:
  - 1.2. Street and number/PO box:
  - 1.3. City and postal code:
  - 1.4. Country:
2. *Claimant*
  - 2.1. Surname, first name/name of company or organisation:
  - 2.2. Street and number/PO box:
  - 2.3. City and postal code:
  - 2.4. Country:
  - 2.5. Telephone (\*):
  - 2.6. E-mail (\*):
  - 2.7. Claimant's representative, if any, and contact details (\*):
- 2.8. Other details (\*):
3. *Defendant*
  - 3.1. Surname, first name/name of company or organisation:
  - 3.2. Street and number/PO box:
  - 3.3. City and postal code:
  - 3.4. Country:
  - 3.5. Telephone (\*):
  - 3.6. E-mail (\*):
  - 3.7. Defendant's representative, if any, and contact details (\*):
- 3.8. Other details (\*):

(\*) Optional.

4. *Judgment*

4.1. Date:

4.2. Case number:

4.3. The substance of the judgment:

4.3.1. The court/tribunal has ordered \_\_\_\_\_ to pay to \_\_\_\_\_

(1) Principal:

(2) Interest:

(3) Costs:

4.3.2. The court/tribunal has made an order against \_\_\_\_\_ to \_\_\_\_\_

(If the judgment was given by an appeal court in the case of a review of a judgment.)

This judgment supersedes the judgment given on \_\_\_\_/\_\_\_\_/\_\_\_\_, case number \_\_\_\_\_, and any certificate relative thereto.

THE JUDGMENT WILL BE RECOGNISED AND ENFORCED IN ANOTHER MEMBER STATE WITHOUT THE NEED FOR A DECLARATION OF ENFORCEABILITY AND WITHOUT ANY POSSIBILITY OF OPPOSING ITS RECOGNITION.

Done at: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Signature and/or stamp

## DIRECTIVES

### DIRECTIVE 2008/52/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 May 2008

#### on certain aspects of mediation in civil and commercial matters

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) and the second indent of Article 67(5) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee <sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) The Community has set itself the objective of maintaining and developing an area of freedom, security and justice, in which the free movement of persons is ensured. To that end, the Community has to adopt, inter alia, measures in the field of judicial cooperation in civil matters that are necessary for the proper functioning of the internal market.
- (2) The principle of access to justice is fundamental and, with a view to facilitating better access to justice, the European Council at its meeting in Tampere on 15 and 16 October 1999 called for alternative, extra-judicial procedures to be created by the Member States.
- (3) In May 2000 the Council adopted Conclusions on alternative methods of settling disputes under civil and commercial law, stating that the establishment of basic principles in this area is an essential step towards enabling the appropriate development and operation of extrajudicial procedures for the settlement of disputes in civil and commercial matters so as to simplify and improve access to justice.

<sup>(1)</sup> OJ C 286, 17.11.2005, p. 1.

<sup>(2)</sup> Opinion of the European Parliament of 29 March 2007 (OJ C 27 E, 31.1.2008, p. 129), Council Common Position of 28 February 2008 (not yet published in the Official Journal) and Position of the European Parliament of 23 April 2008 (not yet published in the Official Journal).

(4) In April 2002 the Commission presented a Green Paper on alternative dispute resolution in civil and commercial law, taking stock of the existing situation as concerns alternative dispute resolution methods in the European Union and initiating widespread consultations with Member States and interested parties on possible measures to promote the use of mediation.

(5) The objective of securing better access to justice, as part of the policy of the European Union to establish an area of freedom, security and justice, should encompass access to judicial as well as extrajudicial dispute resolution methods. This Directive should contribute to the proper functioning of the internal market, in particular as concerns the availability of mediation services.

(6) Mediation can provide a cost-effective and quick extra-judicial resolution of disputes in civil and commercial matters through processes tailored to the needs of the parties. Agreements resulting from mediation are more likely to be complied with voluntarily and are more likely to preserve an amicable and sustainable relationship between the parties. These benefits become even more pronounced in situations displaying cross-border elements.

(7) In order to promote further the use of mediation and ensure that parties having recourse to mediation can rely on a predictable legal framework, it is necessary to introduce framework legislation addressing, in particular, key aspects of civil procedure.

(8) The provisions of this Directive should apply only to mediation in cross-border disputes, but nothing should prevent Member States from applying such provisions also to internal mediation processes.

(9) This Directive should not in any way prevent the use of modern communication technologies in the mediation process.

- (10) This Directive should apply to processes whereby two or more parties to a cross-border dispute attempt by themselves, on a voluntary basis, to reach an amicable agreement on the settlement of their dispute with the assistance of a mediator. It should apply in civil and commercial matters. However, it should not apply to rights and obligations on which the parties are not free to decide themselves under the relevant applicable law. Such rights and obligations are particularly frequent in family law and employment law.
- (11) This Directive should not apply to pre-contractual negotiations or to processes of an adjudicatory nature such as certain judicial conciliation schemes, consumer complaint schemes, arbitration and expert determination or to processes administered by persons or bodies issuing a formal recommendation, whether or not it be legally binding as to the resolution of the dispute.
- (12) This Directive should apply to cases where a court refers parties to mediation or in which national law prescribes mediation. Furthermore, in so far as a judge may act as a mediator under national law, this Directive should also apply to mediation conducted by a judge who is not responsible for any judicial proceedings relating to the matter or matters in dispute. This Directive should not, however, extend to attempts made by the court or judge seized to settle a dispute in the context of judicial proceedings concerning the dispute in question or to cases in which the court or judge seized requests assistance or advice from a competent person.
- (13) The mediation provided for in this Directive should be a voluntary process in the sense that the parties are themselves in charge of the process and may organise it as they wish and terminate it at any time. However, it should be possible under national law for the courts to set time-limits for a mediation process. Moreover, the courts should be able to draw the parties' attention to the possibility of mediation whenever this is appropriate.
- (14) Nothing in this Directive should prejudice national legislation making the use of mediation compulsory or subject to incentives or sanctions provided that such legislation does not prevent parties from exercising their right of access to the judicial system. Nor should anything in this Directive prejudice existing self-regulating mediation systems in so far as these deal with aspects which are not covered by this Directive.
- (15) In order to provide legal certainty, this Directive should indicate which date should be relevant for determining whether or not a dispute which the parties attempt to settle through mediation is a cross-border dispute. In the absence of a written agreement, the parties should be deemed to agree to use mediation at the point in time when they take specific action to start the mediation process.
- (16) To ensure the necessary mutual trust with respect to confidentiality, effect on limitation and prescription periods, and recognition and enforcement of agreements resulting from mediation, Member States should encourage, by any means they consider appropriate, the training of mediators and the introduction of effective quality control mechanisms concerning the provision of mediation services.
- (17) Member States should define such mechanisms, which may include having recourse to market-based solutions, and should not be required to provide any funding in that respect. The mechanisms should aim at preserving the flexibility of the mediation process and the autonomy of the parties, and at ensuring that mediation is conducted in an effective, impartial and competent way. Mediators should be made aware of the existence of the European Code of Conduct for Mediators which should also be made available to the general public on the Internet.
- (18) In the field of consumer protection, the Commission has adopted a Recommendation<sup>(1)</sup> establishing minimum quality criteria which out-of-court bodies involved in the consensual resolution of consumer disputes should offer to their users. Any mediators or organisations coming within the scope of that Recommendation should be encouraged to respect its principles. In order to facilitate the dissemination of information concerning such bodies, the Commission should set up a database of out-of-court schemes which Member States consider as respecting the principles of that Recommendation.
- (19) Mediation should not be regarded as a poorer alternative to judicial proceedings in the sense that compliance with agreements resulting from mediation would depend on the good will of the parties. Member States should therefore ensure that the parties to a written agreement resulting from mediation can have the content of their agreement made enforceable. It should only be possible for a Member State to refuse to make an agreement enforceable if the content is contrary to its law, including its private international law, or if its law does not provide for the enforceability of the content of the specific agreement. This could be the case if the obligation specified in the agreement was by its nature unenforceable.
- <sup>(1)</sup> Commission Recommendation 2001/310/EC of 4 April 2001 on the principles for out-of-court bodies involved in the consensual resolution of consumer disputes (OJ L 109, 19.4.2001, p. 56).

- (20) The content of an agreement resulting from mediation which has been made enforceable in a Member State should be recognised and declared enforceable in the other Member States in accordance with applicable Community or national law. This could, for example, be on the basis of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters <sup>(1)</sup> or Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility <sup>(2)</sup>.
- (21) Regulation (EC) No 2201/2003 specifically provides that, in order to be enforceable in another Member State, agreements between the parties have to be enforceable in the Member State in which they were concluded. Consequently, if the content of an agreement resulting from mediation in a family law matter is not enforceable in the Member State where the agreement was concluded and where the request for enforceability is made, this Directive should not encourage the parties to circumvent the law of that Member State by having their agreement made enforceable in another Member State.
- (22) This Directive should not affect the rules in the Member States concerning enforcement of agreements resulting from mediation.
- (23) Confidentiality in the mediation process is important and this Directive should therefore provide for a minimum degree of compatibility of civil procedural rules with regard to how to protect the confidentiality of mediation in any subsequent civil and commercial judicial proceedings or arbitration.
- (24) In order to encourage the parties to use mediation, Member States should ensure that their rules on limitation and prescription periods do not prevent the parties from going to court or to arbitration if their mediation attempt fails. Member States should make sure that this result is achieved even though this Directive does not harmonise national rules on limitation and prescription periods. Provisions on limitation and prescription periods in international agreements as implemented in the Member States, for instance in the area of transport law, should not be affected by this Directive.
- (25) Member States should encourage the provision of information to the general public on how to contact mediators and organisations providing mediation services. They should also encourage legal practitioners to inform their clients of the possibility of mediation.
- (26) In accordance with point 34 of the Interinstitutional agreement on better law-making <sup>(3)</sup>, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (27) This Directive seeks to promote the fundamental rights, and takes into account the principles, recognised in particular by the Charter of Fundamental Rights of the European Union.
- (28) Since the objective of this Directive cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (29) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and to the Treaty establishing the European Community, the United Kingdom and Ireland have given notice of their wish to take part in the adoption and application of this Directive.
- (30) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Directive and is not bound by it or subject to its application,

<sup>(1)</sup> OJ L 12, 16.1.2001, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

<sup>(2)</sup> OJ L 338, 23.12.2003, p. 1. Regulation as amended by Regulation (EC) No 2116/2004 (OJ L 367, 14.12.2004, p. 1).

<sup>(3)</sup> OJ C 321, 31.12.2003, p. 1.



HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

##### Objective and scope

1. The objective of this Directive is to facilitate access to alternative dispute resolution and to promote the amicable settlement of disputes by encouraging the use of mediation and by ensuring a balanced relationship between mediation and judicial proceedings.

2. This Directive shall apply, in cross-border disputes, to civil and commercial matters except as regards rights and obligations which are not at the parties' disposal under the relevant applicable law. It shall not extend, in particular, to revenue, customs or administrative matters or to the liability of the State for acts and omissions in the exercise of State authority (*acta iure imperii*).

3. In this Directive, the term 'Member State' shall mean Member States with the exception of Denmark.

#### Article 2

##### Cross-border disputes

1. For the purposes of this Directive a cross-border dispute shall be one in which at least one of the parties is domiciled or habitually resident in a Member State other than that of any other party on the date on which:

- (a) the parties agree to use mediation after the dispute has arisen;
- (b) mediation is ordered by a court;
- (c) an obligation to use mediation arises under national law; or
- (d) for the purposes of Article 5 an invitation is made to the parties.

2. Notwithstanding paragraph 1, for the purposes of Articles 7 and 8 a cross-border dispute shall also be one in which judicial proceedings or arbitration following mediation between the parties are initiated in a Member State other than that in which the parties were domiciled or habitually resident on the date referred to in paragraph 1(a), (b) or (c).

3. For the purposes of paragraphs 1 and 2, domicile shall be determined in accordance with Articles 59 and 60 of Regulation (EC) No 44/2001.

#### Article 3

##### Definitions

For the purposes of this Directive the following definitions shall apply:

- (a) 'Mediation' means a structured process, however named or referred to, whereby two or more parties to a dispute attempt by themselves, on a voluntary basis, to reach an agreement on the settlement of their dispute with the assistance of a mediator. This process may be initiated by the parties or suggested or ordered by a court or prescribed by the law of a Member State.

It includes mediation conducted by a judge who is not responsible for any judicial proceedings concerning the dispute in question. It excludes attempts made by the court or the judge seised to settle a dispute in the course of judicial proceedings concerning the dispute in question.

- (b) 'Mediator' means any third person who is asked to conduct a mediation in an effective, impartial and competent way, regardless of the denomination or profession of that third person in the Member State concerned and of the way in which the third person has been appointed or requested to conduct the mediation.

#### Article 4

##### Ensuring the quality of mediation

1. Member States shall encourage, by any means which they consider appropriate, the development of, and adherence to, voluntary codes of conduct by mediators and organisations providing mediation services, as well as other effective quality control mechanisms concerning the provision of mediation services.

2. Member States shall encourage the initial and further training of mediators in order to ensure that the mediation is conducted in an effective, impartial and competent way in relation to the parties.

#### Article 5

##### Recourse to mediation

1. A court before which an action is brought may, when appropriate and having regard to all the circumstances of the case, invite the parties to use mediation in order to settle the dispute. The court may also invite the parties to attend an information session on the use of mediation if such sessions are held and are easily available.

2. This Directive is without prejudice to national legislation making the use of mediation compulsory or subject to incentives or sanctions, whether before or after judicial proceedings have started, provided that such legislation does not prevent the parties from exercising their right of access to the judicial system.

#### Article 6

##### **Enforceability of agreements resulting from mediation**

1. Member States shall ensure that it is possible for the parties, or for one of them with the explicit consent of the others, to request that the content of a written agreement resulting from mediation be made enforceable. The content of such an agreement shall be made enforceable unless, in the case in question, either the content of that agreement is contrary to the law of the Member State where the request is made or the law of that Member State does not provide for its enforceability.

2. The content of the agreement may be made enforceable by a court or other competent authority in a judgment or decision or in an authentic instrument in accordance with the law of the Member State where the request is made.

3. Member States shall inform the Commission of the courts or other authorities competent to receive requests in accordance with paragraphs 1 and 2.

4. Nothing in this Article shall affect the rules applicable to the recognition and enforcement in another Member State of an agreement made enforceable in accordance with paragraph 1.

#### Article 7

##### **Confidentiality of mediation**

1. Given that mediation is intended to take place in a manner which respects confidentiality, Member States shall ensure that, unless the parties agree otherwise, neither mediators nor those involved in the administration of the mediation process shall be compelled to give evidence in civil and commercial judicial proceedings or arbitration regarding information arising out of or in connection with a mediation process, except:

- (a) where this is necessary for overriding considerations of public policy of the Member State concerned, in particular when required to ensure the protection of the best interests of children or to prevent harm to the physical or psychological integrity of a person; or

- (b) where disclosure of the content of the agreement resulting from mediation is necessary in order to implement or enforce that agreement.

2. Nothing in paragraph 1 shall preclude Member States from enacting stricter measures to protect the confidentiality of mediation.

#### Article 8

##### **Effect of mediation on limitation and prescription periods**

1. Member States shall ensure that parties who choose mediation in an attempt to settle a dispute are not subsequently prevented from initiating judicial proceedings or arbitration in relation to that dispute by the expiry of limitation or prescription periods during the mediation process.

2. Paragraph 1 shall be without prejudice to provisions on limitation or prescription periods in international agreements to which Member States are party.

#### Article 9

##### **Information for the general public**

Member States shall encourage, by any means which they consider appropriate, the availability to the general public, in particular on the Internet, of information on how to contact mediators and organisations providing mediation services.

#### Article 10

##### **Information on competent courts and authorities**

The Commission shall make publicly available, by any appropriate means, information on the competent courts or authorities communicated by the Member States pursuant to Article 6(3).

#### Article 11

##### **Review**

Not later than 21 May 2016, the Commission shall submit to the European Parliament, the Council and the European Economic and Social Committee a report on the application of this Directive. The report shall consider the development of mediation throughout the European Union and the impact of this Directive in the Member States. If necessary, the report shall be accompanied by proposals to adapt this Directive.

*Article 12***Transposition**

1. Member States shall bring into force the laws, regulations, and administrative provisions necessary to comply with this Directive before 21 May 2011, with the exception of Article 10, for which the date of compliance shall be 21 November 2010 at the latest. They shall forthwith inform the Commission thereof.

When they are adopted by Member States, these measures shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 13***Entry into force**

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

*Article 14***Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 21 May 2008.

*For the European Parliament*  
*The President*  
H.-G. PÖTTERING

*For the Council*  
*The President*  
J. LENARČIČ

