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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	19 June 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2017) 3984 final
Subject:	COMMISSION DELEGATED REGULATION (EU) No .../.. of 19.6.2017 replacing Annex I to Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure

Delegations will find attached document C(2017) 3984 final.

Encl.: C(2017) 3984 final



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COMMISSION DELEGATED REGULATION (EU) No .../..

of 19.6.2017

replacing Annex I to Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

With the aim to facilitate its application, Annexes I to VII of Regulation (EC) No 1896/2006 creating a European order for payment procedure establish the forms to be used for the application of the Regulation.

Annex I has to be amended in order to take into account the possibility introduced by Article 2(2) of Regulation (EU) 2015/2421 amending Regulation (EC) 1896/2006 that in the case of an opposition to a European Order for Payment, the applicant requests that proceedings continue in accordance with the rules of the European Small Claims Procedure laid down in Regulation (EC) No 861/2007 establishing a European Small Claims Procedure.

Regulation (EU) 2015/2421 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure applies from 14 July 2017.

Pursuant to Article 30 of Regulation (EC) No 1896/2006 as introduced by Regulation (EU) 2015/2421, the Commission has been delegated the power to adopt delegated acts to amend Annexes I to VII of Regulation (EC) No 1896/2006.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The content of the forms is determined by the provisions of the Regulation 1896/2006. Nevertheless, the Commission consulted civil procedure experts from all Member States to ensure a harmonised practical use of the forms. The meeting was held on 18 November 2016, followed by a cycle of discussions through e-mails in first quarter of 2017.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

In accordance with Article 2(2) of Regulation (EU) 2015/2421, from 14 July 2017, there is the possibility that the applicant requests that in the case of an opposition to a European Order for Payment, proceedings continue in accordance with the rules of the European Small Claims Procedure laid down in Regulation (EC) No 861/2007.

Therefore, Annex I has to be amended in order to enable the applicant to make that request.

COMMISSION DELEGATED REGULATION (EU) No .../..

of 19.6.2017

replacing Annex I to Regulation (EC) No 1896/2006 of the European Parliament and of the Council creating a European order for payment procedure

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure¹, and in particular Article 30 thereof,

Whereas:

- (1) Regulation (EC) No 1896/2006 establishes in its Annexes the forms to be used to facilitate its application.
- (2) Regulation (EC) No 1896/2006 was amended by Regulation (EU) 2015/2421 of the European Parliament and of the Council² with the effect from 14 July 2017. From that date where a European Order for Payment is opposed, the claimant has the possibility to request that the proceedings continue in accordance with the rules of the European Small Claims Procedure laid down in Regulation (EC) No 861/2007 of the European Parliament and of the Council³. Appendix 2 and the guidelines thereto in Annex I should take into account such possibility. For the sake of clarity, it is appropriate to replace the whole Annex I.
- (3) As the amendments to Regulation (EC) No 1896/2006 will start to apply on 14 July 2017, this Regulation should enter into force on 14 July 2017.
- (4) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom and Ireland have notified their wish to take part in the adoption and application of Regulation (EC) No 1896/2006 and of Regulation (EU) No 2015/2421, and are therefore bound by this Regulation.

¹ OJ L 399, 30.12.2006, p. 1.

² Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure (OJ L 341, 24.12.2015, p. 1).

³ Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure (OJ L 199 31.7.2007, p. 1).

- (5) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (6) Therefore, it is necessary to replace Annex I to Regulation (EU) No 1896/2006,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1896/2006 is replaced by the text in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on 14 July 2017.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 19.6.2017

For the Commission
The President
Jean-Claude JUNCKER