



Council of the
European Union

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NOTE

from: the Presidency
to: Council

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No. Cion prop.: 16749/13 JUSTCIV 278 EJUSTICE 114 CODEC 2695 + ADD 1 + ADD 2

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 861/2007 of the European Parliament and the Council of 11 July 2007 establishing a European Small Claims Procedure 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
- General Approach

I. INTRODUCTION

1. By letter of 20 November 2013, the Commission transmitted to the Council a proposal for a Regulation amending Regulation (EC) No 861/2007 of the European Parliament and the Council of 11 July 2007 establishing a European Small Claims Procedure ("current Small Claims Regulation") 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.
2. The proposal is based on Article 81 of the Treaty on the Functioning of the European Union and is thus subject to the ordinary legislative procedure.

3. The proposed Regulation aims at modifying the European Small Claims procedure and the European order for payment procedure with a view to improving the efficiency of litigation of small claims and to increasing access to justice in such cases, in particular also for businesses.
4. In accordance with Articles 3 and 4a of the Protocol 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 Kingdom¹ and Ireland² have notified their wish to take part in the adoption and application of the proposed Regulation.
5. 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 on the Functioning of the European Union, Denmark is not taking part in the adoption of the proposed Regulation and will not be bound by it or subject to its application.
6. The European Economic and Social Committee adopted its opinion on the proposed Regulation on 25 March 2014.
7. The Working Party on Civil Law Matters (Small Claims) has examined the proposed Regulation at regular meetings since February 2014.
8. The Working Party has made substantial progress in its discussions and achieved compromise solutions on the following main aspects of the proposed Regulation:
 - maintaining the concept of the cross-border definition as in the current Small Claims Regulation;
 - increasing the use of videoconference, teleconference and other means of distance communication for the conduct of oral hearings and taking of evidence;

¹ See doc. 7992/14 JUSTCIV 73 EJUSTICE 31 CODEC 844.

² See doc. 6877/14 JUSTCIV 47 EJUSTICE 22 CODEC 548.

- increasing the use of electronic communication in general and setting a general framework that allows, under certain conditions, for the use of electronic service of certain documents;
- obliging Member States to offer for the payment of court fees at least one of the distance means of payment provided for in the proposed Regulation;
- minimising the translation requirement as regards the certificate for the enforcement of the judgment given in the European Small Claims procedure; and
- making a bridge between the European Small Claims procedure and the European order for payment procedure by allowing the claimant to use the European Small Claims procedure when a statement of opposition has been lodged against a European order for payment.

9. In the light of the substantial progress made in the discussions, the Presidency is of the opinion that a general approach can be achieved on the draft Regulation.³
10. On 20 November 2014, the Presidency therefore submitted to Coreper a compromise package, which also contained a compromise proposal on the last outstanding issue, the threshold for a small claim.
11. Coreper expressed strong support for the draft general approach presented by the Presidency, including the compromise proposal to double the threshold for a small claim by increasing it from currently EUR 2 000 to EUR 4 000, and decided to submit the compromise package to the JHA Council on 4 and 5 December 2014 for approval as the Council's general approach.

³ Germany and the United Kingdom have entered a parliamentary reservation.

II. CONCLUSION

12. Against this backdrop, the Council is invited:

- (a) to approve as compromise package the draft general approach set out in Addendum 1 to this note, and
 - (b) to take note that this text will constitute the basis for the negotiations with the European Parliament for a first reading agreement.
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