



Council of the
European Union

079920/EU XXV. GP
Eingelangt am 13/10/15

Brussels, 12 October 2015
(OR. en)

12357/15

Interinstitutional File:
2013/0403 (COD)

CODEC 1241
JUSTCIV 218
EJUSTICE 111
PE 153

INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
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 - Outcome of the European Parliament's first reading (Strasbourg, 5 October to 8 October 2015)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the "Joint Declaration on practical arrangements for the codecision procedure"¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Mrs Lidia Joana GERINGER DE OEDENBERG (S&D-PL) presented one compromise amendment (amendment 27) to the proposal for a Regulation, on behalf of the Committee on Legal Affairs. This amendment had been agreed during the informal contacts referred to above.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 7 October 2015, the plenary adopted the compromise amendment (amendment 27) to the proposal for a Regulation. The Commission proposal as thus amended and the legislative resolution constitute the Parliament's first reading position², it reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The text of the amendment adopted and the European Parliament's legislative resolution are set out in the Annex. The amendment is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

European small claims procedure and European order for payment procedure *I**

European Parliament legislative resolution of 7 October 2015 on the 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 (COM(2013)0794 – C7-0414/2013 – 2013/0403(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2013) 0794),
 - having regard to Article 294(2) and Article 81 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0414/2013),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 25 March 2014³,
 - having regard to the undertaking given by the Council representative by letter of 29 June 2015 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs (A8-0140/2015),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

³ OJ C 226, 16.7.2014, p. 43.

Position of the European Parliament adopted at first reading on 7 October 2015 with a view to the adoption of Regulation (EU) 2015/... of the European Parliament and of the Council 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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 81 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national *parliaments*,

Having regard to the opinion of the European Economic and Social Committee⁴,

Acting in accordance with the ordinary legislative procedure⁵,

⁴ OJ C 226, 16.7.2014, p. 43.

⁵ Position of the European Parliament of 7 October 2015.

Whereas:

- (1) Regulation (EC) No 861/2007⁶ of the European Parliament and of the Council⁶ established the European Small Claims Procedure. That Regulation applies to both contested and uncontested cross-border civil and commercial claims of a value not exceeding EUR 2 000. It also *ensures* that the judgments given within this procedure are enforceable without any intermediate procedure, in particular without the need for a declaration of enforceability in the Member State of enforcement (abolition of exequatur). The general aim of Regulation (EC) No 861/2007 has been to improve access to justice for both consumers and businesses by reducing costs and accelerating civil *procedures* with regard to claims within its scope.

■

- (2) The Commission's report of 19 November 2013 on the application of Regulation (EC) No 861/2007 *states that, in general, the European Small Claims Procedure is considered to have facilitated cross-border litigation for small claims in the Union. However, that report also identifies* obstacles to realising the full potential of the European Small Claims Procedure to benefit consumers and businesses, in particular small and medium-sized enterprises (SMEs). That report *finds*, among *other things*, that the low ceiling set out in *Regulation* (EC) No 861/2007 as regards the value of the claim deprives many potential claimants *in* cross-border disputes of the use of a simplified procedure. Furthermore, *it states that* several elements of the procedure could be further simplified in order to reduce the costs and *the duration* of litigation. The Commission's report concludes that those obstacles could be removed most effectively by amending ■ Regulation (EC) No 861/2007.

⁶ 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).

- (3) Consumers should be able to use the opportunities ***afforded*** by the internal market to the fullest extent, and their confidence should not be limited by the lack of **■** effective legal remedies for disputes in which there is a cross-border element. The improvements to the European Small Claims Procedure proposed in this Regulation aim to provide **■** consumers with a means of effective redress, ***and*** thus contribute to the practical enforcement of their rights.
- (4) Increasing the ceiling as regards the value of the claim to EUR **5 000** would improve access to an effective and cost efficient judicial remedy for cross-border disputes, ***in particular for SMEs***. Increased access to justice would enhance trust in cross-border transactions and would contribute to the fullest use of the opportunities afforded by the internal market.
-
- (5) ***This Regulation should apply to cross-border cases only. A cross-border case should be considered to exist when at least one of the parties is domiciled or habitually resident in a Member State bound by this Regulation other than the Member State of the court or tribunal seised.***

- (6) The European Small Claims Procedure *should* be further improved by taking advantage of the technological developments in the field of justice *and of new tools available to the courts and tribunals*, which *can help to overcome* geographical distance and its consequences in terms of high costs and length of proceedings ■ .
- (7) To further reduce the *costs of litigation* and length of proceedings, the use of modern communication technology by the parties and the courts and tribunals should be further encouraged. ■
- (8) For documents which need to be served on the parties *in the European Small Claims Procedure*, electronic service should be on an equal footing with postal service. *To that end, this Regulation should set a general framework that allows the use of electronic service* whenever the *necessary technical means are available and where the use of electronic service is compatible with the national procedural rules of the Member States involved*. *As regards* all other written communications between the parties *or other persons involved in the proceedings* and *the* courts or tribunals, electronic means should be *used as the preferred means to the extent possible, where such means are available and admissible*.

- (9) *Unless the parties or other addressees are obliged under national law to accept electronic means, they should have the choice as to whether electronic means, where such means are available and admissible, or more traditional means are to be used for the service of documents or for other written communications with the court or tribunal. The acceptance by a party of service by electronic means is without prejudice to his right to refuse to accept a document that is not written in, or accompanied by a translation into, the official language of the Member State in which he is domiciled or habitually resident or, if there are several official languages in that Member State, the official language or one of the official languages of the place where that party is domiciled or habitually resident, or in a language which he understands.*
- (10) *Where electronic means are used for the service of documents or for other written communications, existing best practices should be applied by the Member States to ensure that the content of the documents and other written communications received is true and faithful to that of the documents and other written communications sent and that the method used for the acknowledgement of receipt provides confirmation of the receipt by the addressee and of the date of receipt.*

-
- (11) The European Small Claims Procedure is essentially a written procedure. ***Oral*** hearings ***should only*** be held exceptionally where it is not possible to give the judgment on the basis of the written evidence ***or where a court or tribunal agrees to hold an oral hearing*** upon ***a party's request***.
- (12) ***In order to enable persons to be heard without requiring them to travel to the court or tribunal, oral*** hearings as well as the taking of evidence by ***hearing*** witnesses, experts or parties should be carried out ***using any appropriate*** means of distance communication ***available to the court or tribunal, unless, on account of the particular circumstances of the case, the use of such technology would not be appropriate for the fair conduct of the proceedings. As regards*** persons domiciled ***or habitually resident*** in a Member State other than the Member State ***of*** the court ***or tribunal*** seised ■ , oral hearings should be organised ***by making use of the procedures provided for*** in Council Regulation (EC) No 1206/2001⁷.
■

⁷ Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (OJ L 174, 27.6.2001, p. 1).

- (13) *Member States should promote the use of distance communication technology. For the purpose of carrying out oral hearings, arrangements should be made so that the courts or tribunals that are competent in relation to the European Small Claims Procedure have access to appropriate distance communication technology with a view to ensuring the fairness of proceedings with regard to the particular circumstances of the case. In relation to videoconferencing, the Council Recommendations on cross-border videoconferencing adopted by the Council on 15 and 16 June 2015 and the work undertaken in the framework of European e-Justice should be taken into account.*
- (14) The potential costs of litigation can play a role in the claimant's decision on whether to commence a court action. Among other costs, court fees may discourage claimants from taking court action ■ . *In order to ensure access to justice for cross-border small claims, the court fees charged in a Member State for a European Small Claims Procedure should not be disproportionate to the claim and should not be higher than the court fees charged for national simplified court procedures in that Member State. This should, however, not prevent the levying of reasonable minimum court fees and should be without prejudice to the possibility to levy, under the same conditions, a separate fee for any appeal procedure against a judgment given in the European Small Claims Procedure.*

- (15) *For the purposes of this Regulation, court fees should comprise fees and charges to be paid to the court or tribunal, the amount of which is determined in accordance with national law. They should not include, for example, sums which are transferred to third parties in the course of proceedings, such as lawyers' fees, translation costs, costs of service of documents by entities other than a court or tribunal, or costs paid to experts or witnesses.*
- (16) *Effective access to justice across the Union is a major objective. To ensure such effective access in the context of the European Small Claims Procedure, legal aid should be provided in accordance with Council Directive 2003/8/EC⁸.*
- (17) *The payment of court fees should not require the claimant to travel to the Member State of the court or tribunal seised or to hire a lawyer for that purpose. In order to ensure that effective access to the proceedings is also given to claimants who are situated in a Member State other than the Member State in which the court or tribunal seised is situated, the Member States should, as a minimum, offer at least one of the distance payment methods provided for in this Regulation.*

⁸ Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes (OJ L 026, 31.1.2003, p. 41).

- (18) *It should be clarified that a court settlement approved by or concluded before a court or tribunal in the course of the European Small Claims Procedure is enforceable in the same way as a judgment given in that procedure.*
- (19) *In order to minimise the need for translation and associated costs, the court or tribunal should, when issuing a certificate for the enforcement of a judgment given in the European Small Claims Procedure, or of a court settlement approved by or concluded before a court or tribunal in the course of that procedure, in a language other than its own, use the relevant language version of the standard form for the certificate available in a dynamic on-line format on the European e-Justice Portal. In this regard, it should be entitled to rely on the accuracy of the translation available on that Portal. Any costs for necessary translation of the text entered into the free text fields of the certificate are to be allocated as provided under the law of the Member State of the court or tribunal.*

- (20) *Member States should provide practical assistance to parties in filling in the standard forms provided for in the European Small Claims Procedure. Moreover, they should provide general information on the scope of application of the European Small Claims Procedure and on which courts or tribunals are competent in relation to it. However, that obligation should not entail the provision of legal aid or of legal assistance in the form of a legal assessment of a specific case. Member States should be free to decide on the most appropriate ways and means of providing such practical assistance and general information and it should be left to the Member States to decide upon which bodies those obligations are imposed. Such general information on the scope of application of the European Small Claims Procedure and on the competent courts or tribunals may also be provided by way of reference to information given in brochures or handbooks, on national websites or on the European e-Justice Portal, or by appropriate support organisations, such as the European Consumer Centres Network.*
- (21) Information about court fees and methods of payment, as well as about the authorities or organisations competent to give practical assistance in the Member States should be made more transparent and easily available on the Internet. ***To that end, the*** Member States should provide that information to the Commission, which in turn should ensure that it is made publicly available and widely disseminated ***by any appropriate means, in particular through the European e-Justice Portal.***

- (22) It should be clarified in Regulation (EC) No 1896/2006 of the European Parliament and of the Council⁹ that, where a dispute falls within the scope of the European Small Claims Procedure, that procedure should also be available to a **claimant** in a European order for payment procedure **in the event that the defendant** has lodged a statement of opposition **against the** European order for payment.
- (23) ***In order to further facilitate access to the European Small Claims Procedure, the standard claim form should not only be made available at the courts and tribunals that are competent in relation to the European Small Claims Procedure, but it should also be made accessible through appropriate national websites. That obligation could be met by providing a link to the European e-Justice Portal on the relevant national websites.***

To improve the protection of the defendant, the standard forms **provided for in** Regulation (EC) No 861/2007 should contain information about the consequences for the defendant if he **does not contest the claim or does not attend an oral hearing when summoned**, in particular as regards the possibility that a judgment may be given or enforced against **him** and that liability may be incurred for the costs **of the proceedings. The standard forms should also contain information about the fact that the successful party may not be able to recover the costs of the proceedings to the extent that they are unnecessarily incurred or are disproportionate to the value of the claim.**

⁹ Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure (OJ L 399, 30.12.2006, p. 1).

- (24) ***In order for the standard forms of the European Small Claims Procedure and of the European order for payment procedure to be kept up-to-date***, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission ***in respect of changes to Annexes I to IV to Regulation (EC) No 861/2007 and in respect of changes to Annexes I to VII to Regulation (EC) No 1896/2006***. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (25) In accordance with ***Article 3 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 (***TEU***) and to the ***TFEU***, **■** the United Kingdom and Ireland have ***notified*** their wish to take part in the adoption and application of this Regulation **■** .

- (26) ***In*** accordance with Articles 1 and 2 of **■** Protocol ***No 22*** on the position of Denmark, annexed to the ***TEU and to the TFEU, Denmark is not taking part*** in the adoption of this Regulation and is ***not*** bound by it ***or*** subject to its application.
- (27) Regulations (EC) No 861/2007 and (EC) No 1896/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 861/2007 is amended as follows:

- (1) Article 2 is replaced by the following:

"Article 2

Scope

1. This Regulation shall apply, ***in cross-border cases as defined in Article 3***, to civil and commercial matters, whatever the nature of the court or tribunal, where the value of a claim does not exceed EUR ***5 000*** 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 *or out of a relationship deemed by the law applicable to such relationship to have comparable effects to marriage*;
 - (ba) maintenance obligations *arising from a family relationship, parentage, marriage or affinity*;
 - (bb) wills and succession, *including maintenance obligations arising by reason of death*;
 - (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.

■ ".

(2) In Article 3, *paragraphs 2 and 3 are replaced by the following:*

- "2. Domicile shall be determined in accordance with Articles 62 and 63 of Regulation (EU) No 1215/2012 of the European Parliament and of the Council*.**
- 3. The relevant moment for determining whether a case is a cross-border case is the date on which the claim form is received by the court or tribunal with jurisdiction.**

* **Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1)."**

(3) Article 4 is amended as follows:

(a) In paragraph 4, second subparagraph, the following sentence is added:

"The court *or tribunal* shall inform the claimant of *such dismissal and whether an appeal is available against* such dismissal.";

(b) Paragraph 5 is replaced by the following:

"5. Member States shall ensure that the standard claim Form A is available ■ at all courts and tribunals before which the European Small Claims Procedure can be commenced, *and that it is accessible through relevant national websites* .".

(4) In Article 5, paragraph 1 is replaced by the following:

"1. The European Small Claims Procedure shall be a written procedure.

Ia. The court or tribunal shall hold an oral hearing *only* if it considers that it is not possible to give the judgment on the basis of the written evidence ■ 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 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 from any challenge to the judgment itself.

■ ".

(5) Article 8 is replaced by the following:

"Article 8

Oral hearing

1. ***Where an oral hearing is considered necessary in accordance with Article 5(1a), it shall be held by making use of any appropriate distance communication technology, such as videoconference or teleconference, available to the court or tribunal, unless the use of such technology, on account of the particular circumstances of the case, is not appropriate for the fair conduct of the proceedings.***

Where the person to be heard is domiciled or habitually resident in a Member State other than the Member State of the court or tribunal seised, that person's attendance at an oral hearing by way of videoconference, teleconference or other appropriate distance communication technology shall be arranged by making use of the procedures provided for in Council Regulation (EC) No 1206/2001*.

2. *A party summoned to be physically present at an oral hearing may request the use of distance communication technology, provided that such technology is available to the court or tribunal, on the grounds that the arrangements for being physically present, in particular as regards the possible costs incurred by that party, would be disproportionate to the claim.*
3. *A party summoned to attend an oral hearing through distance communication technology may request to be physically present at that hearing. The standard claim Form A and the standard answer Form C, established in accordance with the procedure referred to in Article 27(2), shall provide information to the parties that the recovery of any costs incurred by a party as a result of being physically present at the oral hearing, upon request of that party, is subject to the conditions laid down in Article 16.*
4. *The decision of the court or tribunal on a request provided for in paragraphs 2 and 3 may not be contested separately from a challenge to the judgment itself.*

* *Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (OJ L 174, 27.6.2001, p. 1)."*

(6) Article 9 is replaced by the following:

"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. ***It shall use the simplest and least burdensome method of taking evidence.***
2. The court or tribunal may admit the taking of evidence through written statements of witnesses, experts or parties.
3. Where the taking of evidence involves a person being heard, that hearing shall be carried out in accordance with the conditions set out in Article 8.
4. The court or tribunal may take expert evidence or oral testimony only if it is not possible to give the judgment on the basis of ***other*** evidence.

■ ".

(7) Article 11 is replaced by the following:

"Article 11

Assistance for the parties

1. The Member States shall ensure that it is possible for the parties to receive ***both*** practical assistance in filling in the forms ***and general information on the scope of application of the European Small Claims Procedure, as well as general information as to which courts or tribunals in the Member State concerned are competent to give a judgment in the European Small Claims Procedure. That assistance shall be provided free of charge. Nothing in this paragraph requires the Member States to provide for legal aid or for legal assistance in the form of a legal assessment of a specific case.***
2. The Member States shall ensure that information on the authorities or organisations competent to give assistance in accordance with paragraph 1 is available **■** at all courts and tribunals before which the European Small Claims Procedure can be commenced ***and is accessible through relevant national websites.***".

(8) Article 13 is replaced by the following:

"Article 13

Service of documents and other written communications ■

1. The documents referred to in Article 5(2) and **(6) and judgments given in accordance with Article 7 shall be served:**

(a) by postal service, or

(b) by electronic means:

(i) where such means are technically available and admissible in accordance with the procedural rules of the Member State in which the European Small Claims Procedure is conducted and, if the party to be served is domiciled or habitually resident in another Member State, in accordance with the procedural rules of that Member State; and

(ii) where the party to be served has expressly accepted in advance that documents may be served on him by electronic means or is, in accordance with the procedural rules of the Member State in which that party is domiciled or habitually resident, under a legal obligation to accept that specific method of service.

The service shall be attested by an acknowledgment of receipt including the date of receipt.

2. All written communications not referred to in paragraph 1 between the court or tribunal and the parties *or other persons involved in the proceedings* shall be carried out by electronic means attested by an acknowledgment of receipt, where such means are *technically available and admissible in accordance with the procedural rules of the Member State in which the European Small Claims Procedure is conducted, provided that the party or person has accepted in advance such means of communication or is, in accordance with the procedural rules of the Member State in which that party or person is domiciled or habitually resident, under a legal obligation to accept* such means of communication.
3. *In addition to any other means available in accordance with the procedural rules of the Member States for expressing acceptance in advance, as required under paragraphs 1 and 2, of the use of electronic means, it shall be possible to express such acceptance by means of the standard claim Form A and the standard answer Form C.*
4. If service in accordance with paragraph 1 is not possible, service may be effected by any of the methods provided for in Article 13 or 14 of Regulation (EC) No 1896/2006.

If communication in accordance with paragraph 2 is not possible, *or, on account of the particular circumstances of the case, not appropriate*, any other method of communication *admissible under the law of the Member State in which the European Small Claims Procedure is conducted* may be used."

(9) The following **Article** is inserted:

"Article 15a

Court fees and methods of payment

1. The court ***fees*** charged ***in a Member State*** for a European Small Claims Procedure shall not ***be disproportionate and shall not be higher than the court fees charged for national simplified court procedures in that Member State.***
2. The Member States shall ensure that the parties can pay the court fees by means of distance payment methods ***which allow the parties to make the payment also from a Member State other than the Member State in which the court or tribunal is situated, by offering at least one of the following methods of payment:***
 - (a) bank transfer ■ ;
 - (b) credit or debit card ■ payment; ***or***
 - (c) ***direct debit from the claimant's bank account."***

(10) In Article 17, paragraph 2 is replaced by the following:

- "2. Articles 15a and 16 shall apply to any appeal."

(11) Article 18 is replaced by the following:

"Article 18

Review of the judgment in exceptional cases

1. A defendant who did not enter an appearance shall be entitled to apply for a review of the judgment given in the European Small Claims Procedure before the **competent** court or tribunal ■ of the Member State **in which** the judgment was given, **where**:
 - (a) the defendant was not served with the claim form, **or, in the event of an oral hearing, was not summoned to that hearing**, in sufficient time and in such a way as to enable him to arrange for his defence; or
 - (b) the defendant was prevented from contesting the claim by reason of *force majeure* or due to extraordinary circumstances without any fault on his part,unless the defendant failed to challenge the judgment when it was possible for him to do so.
2. The time limit for applying for a review shall be 30 days. It shall run from the day the defendant was effectively acquainted with the contents of the judgment and was able to react, at the latest from the date of the first enforcement measure having the effect of making the property of the defendant non-disposable in whole or in part. No extension of the time limit may be granted ■ .

3. If the court rejects the application for a review referred to in paragraph 1 on the basis that none of the grounds for a review set out in that paragraph apply, the judgment shall remain in force.

If the court decides that a review is justified on any of the grounds set out in paragraph 1, the judgment given in the European Small Claims Procedure shall be null and void. However, the *claimant* shall not lose the benefit of *any* interruption of prescription or limitation periods *where such an interruption applies under national law*."

(12) *In Article 20, paragraph 2 is replaced by the following:*

"2. At the request of one of the parties, the court or tribunal shall issue a certificate concerning a judgment given in the European Small Claims Procedure using the standard Form D, as set out in Annex IV, at no extra cost. Upon request, the court or tribunal shall provide that party with the certificate in any other official language of the institutions of the Union by making use of the multilingual dynamic standard form available on the European e-Justice Portal. Nothing in this Regulation shall oblige the court or tribunal to provide a translation and/or transliteration of the text entered in the free text fields of that certificate."

(13) In Article 21(2), point (b) is replaced by the following:

"(b) ■ 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."

(14) *The following Article is inserted:*

"Article 21a

Language of the certificate

1. Each Member State *may* indicate *the* official language or languages of the institutions of the Union, other than its own, which it can accept for the *certificate referred to in Article 20(2)*.
2. *Any* translation of the *information on the* substance of the judgment *provided in a* certificate *as referred to in Article 20(2)* shall be done by a person qualified to carry out translations in one of the Member States."

(15) *The following Article is inserted:*

"Article 23a

Court settlements

A court settlement approved by or concluded before a court or tribunal in the course of a European Small Claims Procedure and that is enforceable in the Member State in which the procedure was conducted shall be recognised and enforced in another Member State under the same conditions as a judgment given in a European Small Claims Procedure.

The provisions of Chapter III shall apply, mutatis mutandis, to court settlements."

(16) Article 25 is replaced by the following:

"Article 25 ■

Information to be provided by Member States

1. *By ...* ⁺, *the* Member States shall communicate to the Commission ■ :

- (a) the courts or tribunals competent to give a judgment in the European Small Claims Procedure;
- (b) the means of communication accepted for the purposes of the European Small Claims Procedure and available to the courts or tribunals in accordance with Article 4(1);

⁺ OJ - please insert the date: *Six months before the date of application of this Regulation.*

- (c) the authorities or organisations competent *to provide* practical assistance in accordance with Article 11;
- (d) *the means of electronic service and communication technically available and admissible under their procedural rules in accordance with Article 13(1), (2) and (3), and the means, if any, for expressing acceptance in advance of the use of electronic means as required by Article 13(1) and (2) available under their national law;*
- (e) *the persons or types of professions, if any, under a legal obligation to accept service of documents or other written communications by electronic means in accordance with Article 13(1) and (2);*
- (f) ■ the court fees of the European Small Claims Procedure or how they are calculated, as well as the methods of payment accepted for the payment of court fees in accordance with Article 15a;

■

- (g) any appeal available under their procedural law in accordance with Article 17, the time *period* within which such an appeal is to be lodged, and the court or tribunal with which such an appeal may be lodged;
- (h) the procedures for applying for *a* review as provided for in Article 18 *and the competent courts or tribunals for such a review*;
- (i) the languages *they accept* pursuant to Article 21*a(1)*; and
- (j) the authorities competent with respect to enforcement and the authorities competent for the purposes of the application of Article 23.

Member States shall inform the Commission of any subsequent changes to *that* information.

2. The Commission shall make the information *communicated* in accordance with paragraph 1 publicly available *by* any appropriate means, such as *the European e-Justice Portal*".

(17) Article 26 is replaced by the following:

"Article 26

Amendment of the Annexes

■ The Commission shall be empowered to adopt delegated acts in accordance with Article 27 concerning the amendment of Annexes I to IV."

(18) Article 27 is replaced by the following:

"Article 27

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 26 shall be conferred on the Commission for an indeterminate period of time from ...⁺.
3. The delegation of power referred to in Article 26 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

⁺ OJ - please insert the date of entry into force of this Regulation.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 26 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council."

(19) Article 28 shall be replaced by the following:

"Article 28

Review

1. By ...⁺, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the operation of this Regulation, ***including an evaluation as to whether:***

(a) a further increase of the limit referred to in Article 2(1) is appropriate in order to attain the objective of this Regulation of facilitating access to justice for citizens and small and medium-sized enterprises in cross-border cases; and

⁺ OJ - please insert the date: ***5 years after the date of application of this Regulation.***

- (b) *an extension of the scope of the European Small Claims Procedure, in particular to claims for remuneration, is appropriate to facilitate access to justice for employees in cross-border employment disputes with their employer, after considering the full impact of such an extension.*

That report shall be accompanied, if appropriate, by legislative proposals.

To that end and by ...⁺, Member States shall provide the Commission with information relating to the number of applications under the European Small Claims Procedure as well as the number of requests for enforcement of judgments given in a European Small Claims Procedure.

2. *By ...⁺⁺, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a report on the dissemination of information about the European Small Claims Procedure in the Member States, and may produce recommendations as to how to make that procedure better known."*

⁺ OJ - please insert the date: *4 years after the date of application of this Regulation.*

⁺⁺ OJ - please insert the date: *2 years after the date of application of this Regulation.*

Article 2

Regulation (EC) No 1896/2006 is amended as follows:

(1) In Article 7, paragraph 4 is replaced by the following:

"4. In an Appendix to the application, the claimant may indicate to the court which, if any, of the procedures listed in points (a) and (b) of Article 17(1) he requests to be applied to his claim in the subsequent civil proceedings in the event that the defendant lodges a statement of opposition against the European order for payment.

In the Appendix provided for in the first subparagraph, the claimant may also indicate to the court that he opposes a transfer to civil proceedings within the meaning of point (a) or point (b) of Article 17(1) 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."

(2) Article 17 ■ is replaced by the following:

"Article 17

Effect of the lodging of a statement of opposition

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

(a) the European Small Claims Procedure laid down in Regulation (EC) No 861/2007, if applicable; or

(b) any appropriate national civil procedure.

- 1a.** *Where the claimant has not indicated which of the procedures listed in points (a) and (b) of paragraph 1 he requests to be applied to his claim in the proceedings that ensue in the event of a statement of opposition or where the claimant has requested that the European Small Claims Procedure laid down in Regulation (EC) No 861/2007 be applied to a claim that does not fall within the scope of that Regulation, the proceedings shall be transferred to the appropriate national civil procedure, unless the claimant has explicitly requested that such transfer not be made.*
- 1b.** Where the claimant has pursued his claim through the European order for payment procedure, nothing under national law shall prejudice his position in subsequent civil proceedings.
2. The transfer to civil proceedings within the meaning of **points** (a) and (b) of **paragraph 1** shall be governed by the law of the Member State of origin.
3. The claimant shall be informed of whether the defendant has lodged a statement of opposition and of any transfer to civil proceedings within the meaning of paragraph 1."

(3) *In Article 25, paragraph 1 is replaced by the following:*

"1. Where, in a Member State, the court fees for civil proceedings within the meaning of point (a) or point (b) of Article 17(1), as applicable, are equivalent to or higher than those of the European order for payment procedure, the total of the court fees for a European order for payment procedure and for the civil proceedings that ensue in the event of a statement of opposition in accordance with Article 17(1) shall not exceed the fees for those proceedings without a preceding European order for payment procedure in that Member State.

No additional court fees may be charged in a Member State for the civil proceedings that ensue in the event of a statement of opposition in accordance with point (a) or point (b) of Article 17(1), as applicable, if the court fees for such proceedings in that Member State are lower than those for the European order for payment procedure."

(4) *Article 30 is replaced by the following:*

"Article 30

Amendment of the Annexes

The Commission shall be empowered to adopt delegated acts in accordance with Article 31 concerning the amendment of Annexes I to VII."

(5) *Article 31 is replaced by the following:*

"Article 31

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The power to adopt delegated acts referred to in Article 30 shall be conferred on the Commission for an indeterminate period of time from ...⁺.***
- 3. The delegation of power referred to in Article 30 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.***
- 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.***

⁺ OJ - please insert the date of entry into force of this Regulation.

5. *A delegated act adopted pursuant to Article 30 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council."*

Article 3

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

It shall apply from ...⁺ *with the exception of point (16) of Article 1, amending Article 25 of Regulation (EC) No 861/2007, which shall apply from ...*⁺⁺.

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

Done at ...,

For the European Parliament
The President

For the Council
The President

⁺ OJ - please insert the date: **18 months after the entry into force of this Regulation.**
⁺⁺ OJ - please insert the date: **12 months after the entry into force this Regulation.**