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Delegations will find attached document COM(2015) 495 final.

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EUROPEAN  
COMMISSION

Brussels, 13.10.2015  
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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE  
COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE**

**on the application of Regulation (EC) 1896/2006 of the European Parliament and of the  
Council creating a European Order for Payment Procedure**

## 1. INTRODUCTION

### 1.1. Objective and main features of the procedure

Regulation (EC) No 1896/2006 of 12 December 2006<sup>1</sup> created the first genuine European civil procedure, the European order for payment procedure. It has been applied since December 2008 in all Member States except Denmark. It is an optional procedure that can be used in cross-border cases as an alternative to domestic payment orders. This report has been drawn up in accordance with Article 32 of the Regulation which provides that 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.

The swift and efficient recovery of uncontested outstanding debts is of vital importance for economic operators in the European Union. Late payments are a key cause of insolvencies, in particular of small and medium-sized enterprises, and result in numerous job losses. This has led a number of Member States to introduce a simplified order for payment procedure. A payment order procedure aims at providing a speedy and cost-effective judicial relief against a debtor to pay a sum of money, on the assumption that the claim will not be contested by the debtor. However, domestic procedures are often inadmissible or impracticable in cross-border cases and their level of performance varies substantially.

It was for these reasons that the European order for payment procedure was introduced. It allows creditors to recover uncontested civil and commercial claims according to a uniform procedure available in 27 Member States. It is a written procedure which does not require presence before the court nor the assistance of a lawyer. The claimant only has to submit his application. No documentary evidence is needed to support the application and no further actions of the claimant are required in the course of the procedure. The European order for payment is issued by courts or other judicial authorities. It can freely circulate in all Member States without any intermediate proceedings for recognition and enforcement (*exequatur*) being required in the Member State of enforcement. This means that a European order for payment can be enforced in other Member States like any local payment order issued there, i.e. without the need of a declaration of enforceability.

This streamlined and efficient procedure is designed only for uncontested claims. Therefore, in order to safeguard the effective right of the defense, the defendant can lodge a statement of opposition within 30 days of the order being issued. The defendant must only indicate that he contests the claim, without having to specify reasons for it, and does not need to be represented by a lawyer. In that case, the European order for payment procedure is terminated. The claim may, however, continue to be pursued in accordance with the rules of ordinary civil procedure which will enable the defendant's arguments to be fully considered.

The Regulation provides for standard forms as part of the simplified procedure foreseen, which are available online on the European e-Justice Portal in all languages.<sup>2</sup> The forms were updated by Commission Regulation (EU) No 936/2012 of 4 October 2012.<sup>3</sup> Information about

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

<sup>2</sup> [https://e-justice.europa.eu/content\\_european\\_payment\\_order\\_forms-156-en.do](https://e-justice.europa.eu/content_european_payment_order_forms-156-en.do)

<sup>3</sup> OJ L 283, 16.10.2012, p.1.

which courts have jurisdiction to issue a European order for payment is available on the European Judicial Atlas in civil and commercial matters.<sup>4</sup> The European Judicial Network published a practice guide on the Regulation in 2010.<sup>5</sup>

## **1.2. Methodology and gathering of information**

This report is based on information gathered from different sources.

A *Eurobarometer* survey was conducted in June 2010 among 26 690 citizens in EU27.

The European Commission co-financed a project "Simplification of debt collection in the EU" managed by the University of Maribor, Slovenia and involving 14 Member States (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Germany, Spain, Finland, France, Italy, the Netherlands, Poland, Portugal, Sweden). The project resulted in two expert reports on Regulation (EC) No 1896/2006 and 14 national reports.<sup>6</sup>

In order to obtain information on the operation of the procedure, the Commission launched a survey in April 2013 by sending a questionnaire to Member States. The statistical data on the use of the procedure was further updated and completed in June 2014.

At the 45<sup>th</sup> meeting of contact points of the *European Judicial Network in Civil and Commercial Matters* of 29-30 May 2013, the operation of European procedures, including the European order for payment procedure, was discussed at technical level on the basis of two Commission working documents.

Finally, three preliminary rulings of the European Court of Justice on the interpretation of the Regulation have been taken into account in preparing this report.<sup>7</sup>

## **2. GENERAL ASSESSMENT OF THE REGULATION**

Overall, the objective of the Regulation to simplify, speed up and reduce the costs of litigation in cases concerning uncontested claims and to permit the free circulation of European payment orders in the EU without *exequatur* was broadly achieved, though in most Member States the procedure was only applied in a relatively small number of cases.

From the studies and consultation carried out, it appears that there have been no major legal or practical problems in the use of the procedure or in the fact that *exequatur* is abolished for the recognition and enforcement of the judgments resulting from the procedure.

### **2.1. Statistical data**

According to the available information, between 12,000 and 13,000 applications for European orders for payment are received by the courts of Member States per year.<sup>8</sup> The highest

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<sup>4</sup> [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/epo\\_information\\_en.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/epo_information_en.htm)

<sup>5</sup> [http://ec.europa.eu/justice/civil/document/index\\_en.htm](http://ec.europa.eu/justice/civil/document/index_en.htm)

<sup>6</sup> See <http://www.acj.si/en/pres-simpf>.

<sup>7</sup> Cases C-215/11, C-324/12 and Joined Cases C-119/13 and C-120/13.

numbers of applications (more than 4,000 annually) are in Austria and Germany where also most European orders for payment are issued. Between 300 and 700 applications are received annually in Belgium, the Czech Republic, France, Hungary, the Netherlands, Portugal and Finland. In the other Member States, the procedure has been taken up to a more limited extent. More detailed information on the actual use of the European order for payment procedure per Member State can be found in the Annex.

## **2.2. Awareness of the existence and operation of the procedure**

A 2010 Eurobarometer<sup>9</sup> showed that awareness and use of the European procedures including the European order for payment procedure among citizens is relatively low: Only 6 % of those asked had heard about the European order for payment procedure. This may be explained by the fact that the procedure is mainly used by companies and lawyers and by the fact that relatively few citizens are involved in cross-border litigation.

When citizens are aware of the procedure, the European order for payment procedure is generally regarded as a useful procedure for the enforcement of cross-border civil monetary claims that are likely to be uncontested by the defendant.

The Commission has implemented a project to support small and medium-sized enterprises that operate across borders by facilitating cross-border debt recovery in order to improve the use, understanding and awareness of the available legal instruments, including the Regulation.<sup>10</sup>

## **3. SPECIFIC POINTS OF ASSESSMENT**

### **3.1. Geographical Scope: "Cross-border cases"**

The Regulation applies to cross-border disputes where 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. This limitation to "cross-border" cases corresponds to the scope of application of other instruments in this area such as the European Small Claims procedure.<sup>11</sup> Users of the procedure may be unaware or may not understand this limitation of scope. They may have the expectation that more of their cases would be covered by the Regulation. This is confirmed by some companies artificially creating a cross-border scenario as envisaged in the Regulation in order to benefit from its advantages, for example by assigning their claim to a foreign company. This exemplifies the perceived effectiveness of this procedure.

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<sup>8</sup> See the Annex (Statistical data on the use of the European order for payment procedure) for details and data sources.

<sup>9</sup> [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_351\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_351_en.pdf)

<sup>10</sup> [http://ec.europa.eu/growth/smes/support/cross-border-enforcement/index\\_en.htm](http://ec.europa.eu/growth/smes/support/cross-border-enforcement/index_en.htm)

<sup>11</sup> 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.

### **3.2. Jurisdiction**

Five Member States have concentrated jurisdiction to handle European orders for payment in a single specific court/authority.<sup>12</sup> In the other Member States, district and regional courts (or notaries for instance in Hungary) are competent for issuing European orders for payment.

Specialisation may have certain advantages such as ensuring specialised knowledge of the procedure and language skills. On the other hand, even if the European order for payment procedure is a written procedure, citizens, especially consumers, may still prefer to lodge claims with their local court having jurisdiction. Whether the advantages of specialisation outweigh the disadvantages may also depend on the geographical size of the Member State. Overall, the data on the use of the procedure in the Annex as to whether a centralised system leads to a more frequent use of the procedure are inconclusive. Nevertheless, in the light of the written and non-adversarial nature of the procedure, where no debate on the substance of the claim takes place, and which is thus particularly suited for electronic processing (see below under 3.5.), the European order for payment procedure does appear better suited for centralised court handling than other procedures which require a debate on the substance and consideration of evidence and therefore may call for closer proximity of the court to the litigants.

### **3.3. Application for a European order for payment**

#### **3.3.1. Principal and interest**

The claim must be for a specific amount that has fallen due at the time when the application for a European order for payment is submitted. The amount of the claim includes the principal and, where applicable, interest, contractual penalties and costs. If interest on the claim is demanded, the application must state the interest rate and the period of time for which that interest is demanded. In Case C-215/11,<sup>13</sup> the Court of Justice clarified that in an application a claimant should be able to demand interest accrued up to the date of payment of the principal. In such a case, the national court is free to determine how the order form E is to be completed, provided that the defendant is informed of the calculation of the interest.

Commission Regulation (EU) No 936/2012 of 4 October 2012<sup>14</sup> which amended the Annexes to the European order for payment Regulation, ensures that the defendant is advised, in form E, in the table "important information for the defendant", that interest may be payable, under national law, to the date of enforcement of the order, in which case this will increase the total amount payable. Nevertheless, Form E does not seem sufficiently developed to include an appropriate description of the interest to be recovered. A further amendment of the forms should therefore be considered.

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<sup>12</sup> Commercial court in Zagreb, Amtsgericht of Berlin-Wedding, Oporto District Court, Helsinki District Court, Swedish Enforcement Administration.

<sup>13</sup> *Iwona Szyrocka*, Judgment of the Court of 13 December 2012.

<sup>14</sup> OJ L 283, 16.10.2012, p. 1.

### **3.3.2. Language of the application**

In most Member States, applications must be submitted in the official language(s). Some Member States accept, however, also foreign languages: the Czech Republic, Estonia, Cyprus and Sweden accept English; France accepts English, German, Italian and Spanish.

Translation requirements have a negative impact on costs and delays of the procedure even if the European order for payment procedure is a procedure where the parties are not required to provide and debate on evidence. The application form can be automatically translated in the official language of the Member State where the court is sitting. As it contains tick-boxes, in most cases a translation is not necessary. In order to achieve the objective of a truly European procedure, all Member States should accept European payment order applications in at least one other language than their official national language(s).

### **3.3.3. Electronic Submission of the Application**

Many Member States allow the electronic submission of the application<sup>15</sup> or envisage developing electronic processing in the future in all courts having jurisdiction to deal with the European order for payment procedure.<sup>16</sup>

Following a Commission study on the feasibility of electronic application for European payment orders, a pilot project on this issue is being co-funded by the European Commission. Nine Member States are participating in the e-CODEX pilot for the European order for payment procedure.<sup>17</sup> The participants are active either as a sending side, a receiving side or both. A sending side allows users to send claims (i.e., Form A) for European payment orders to a receiving side. A receiving side accepts claims and delivers them electronically to the court designated in the submitted Form A. The court in question can later send back electronic replies (e.g., Form B, Form E, etc.) via the same channel. At this stage not all piloting Member States have an operational system: some of them are still in the testing phase with plans to go live in 2015 or 2016. The "sending" Member States generally allow the electronic submission of claims only for key customers of justice, e.g. lawyers, banks, insurance companies and social security institutions, and not necessarily for the general public. Examples of such national filing systems accessible to key customers already exist in Germany and Austria. In the near future, the European e-Justice Portal will offer, as a sending side, the possibility for the general public to also submit claims electronically. Submission will be possible only to "receiving" Member States who successfully completed the necessary integration tests with the European e-Justice Portal and are operating an e-CODEX system.

### **3.3.4. Examination of the application**

Three Member States<sup>18</sup> reported a high proportion of applications that are returned by the courts for completion or rectification. Frequently reported causes of return are inaccurate or

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<sup>15</sup> Czech Republic, Germany, Estonia, France, Lithuania, Austria, Slovenia, Slovak Republic, Finland, Sweden, UK, Cyprus.

<sup>16</sup> Ireland, Italy, Malta, Portugal.

<sup>17</sup> Austria, Estonia, France, Germany, Greece, Italy, France, Poland and the Netherlands.

<sup>18</sup> Germany, the Netherlands and Sweden.

incomplete information on the parties (for example the claimant's address or signature is missing), incomplete applications for interest and unpaid court fees.

The dynamic forms available in the European e-Justice Portal already assist users in correctly filling in applications. Currently, the Portal also allows users, via the European Judicial ATLAS website, to determine the competent court. As of the second half of 2015, following the launch of the European Court Database, the process of determining the competent court to which the claim should be sent will be improved even further. It could be explored how further explanation on how to fill in the forms could be given on the European e-Justice Portal and how the electronic forms could include more details about the interest claimed. Finally, even if there is no legal obligation on Member States to offer assistance in filling in the forms similar to that foreseen in Regulation (EC) No 861/2007 establishing a European Small Claims procedure, Member States could extend the assistance offered to citizens in the European Small Claims procedure to assistance under the European order for Payment Procedure to the benefit of citizens as well as of an efficient administration of justice in terms of time and costs.

The Regulation explicitly provides that the examination of an application for a European order for payment may take the form of an automated procedure. This is the case in Austria and Germany. The European order for payment procedure – being a written procedure without examination of evidence or hearings - seems particularly suited for full electronic processing. It could yield positive effects concerning the amount of time required for the conduct of the procedure (see also below under 3.4.). Since a statement of objections can be easily lodged against the payment order issued in an automated procedure and the procedure ensures effective service of documents, the defendant's rights are duly safeguarded.

### **3.4. Issuing a European order for payment**

It appears from the available information that the obligation for courts to issue European orders for payment within 30 days of the application is generally respected only in some Member States. From those Member States that have provided relevant data, courts issue the order in time in Malta (1 week), Belgium and Ireland (2 weeks), Germany (2-3 weeks), Bulgaria and Lithuania (30 days). Courts take their decision within 1-2 months in Greece and Luxembourg, within 2 months in France and Finland, up to 4 months in Austria, the Czech Republic, Cyprus, Estonia, Poland, the Netherlands, Portugal, Sweden, Slovenia, up to 6 months in Hungary, 8 months in Spain and up to 9 months in Slovakia.

Lengthy proceedings can hardly be justified in the light of the fact that the procedure does not require any examination of evidence or hearing of parties. A reduction of this length is absolutely necessary as the quick recovery of uncontested claims has a high impact on the cash flow of companies, in particular SMEs. In addition, a systematic non-respect of the deadlines provided for in the Regulation may be considered as an infringement of the Regulation. Further work developing electronic processing of the procedure may help to address the problem. The Commission services will continue to closely monitor this area for improvements.

### **3.5. Service of European payment orders and of other documents**

No major problem concerning the service of documents has been reported in the specific context of the European order for payment procedure. The only complaints received concern the costs of cross-border service. According to the Commission's report of December 2013 on



the application of Regulation (EC) No 1393/2007,<sup>19</sup> European rules have helped speed up the service of documents between EU countries, despite an ever increasing caseload. Delivery times for judicial documents have decreased in Austria, Belgium, Finland, Germany, Greece and Portugal. There are various means of service in Member States. For the purposes of the European order for payment procedure, Member States are encouraged to use cheap methods of service such as postal service with notification of receipt.

Although electronic service of documents is foreseen as a possible method of service in Articles 13 and 14 of the Regulation, it is not yet a reality in the judicial landscape of the EU. The underlying reasons may be both of a legal and a technical nature. Articles 13 and 14 make service by electronic means subject to the national law of the State in which the service is to be effected. Therefore, the existence of national laws on electronic service of documents would be a precondition for such service. Furthermore, under Regulation (EC) No 1393/2007 on the service in the Member States of judicial and extrajudicial documents<sup>20</sup> which applies to electronic service effected under the European order for payment Regulation,<sup>21</sup> direct electronic service of a document by a court on a party in another Member State is not possible even theoretically. Finally, technical reasons and incompatibilities of national systems of electronic service may further hinder the development of cross-border electronic service.

### **3.6. Costs**

It follows from the Regulation that court fees are fixed in accordance with national law. However, in the event of a statement of opposition of the defendant to a European order for payment, the Regulation requires that the combined court fees for the European payment orders and ordinary proceedings may not exceed those for ordinary proceedings only. The data available on court fees for the European order for payment procedure show that such fees are similar to the fees for litigating under similar national procedures and vary largely depending on the Member State where the claim is filed. Also, calculation methods of fees differ between Member States (fixed fees or fees calculated as a proportion of the value of the claim or a combination of these two). In practice, citizens have occasionally complained about the rate of fees in some Member States.

However, the major problem with court fees as reported to the Commission was the lack of transparency of such fees for potential applicants. In order to address this problem, the *European Judicial Network in Civil and Commercial Matters* has published that information on the European e-Justice Portal.<sup>22</sup>

### **3.7. Opposing a European order for payment**

It appears that defendants oppose the European order for payment only to a limited extent, although the rate of opposition differs between Member States. For instance, opposition is

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<sup>19</sup> Report on the application of Regulation (EC) No 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, COM(2013) 858 final.

<sup>20</sup> OJ L 324, 10.12.2007, p. 79.

<sup>21</sup> See Article 27.

<sup>22</sup> [https://e-justice.europa.eu/content\\_court\\_fees\\_epo-305-en.do](https://e-justice.europa.eu/content_court_fees_epo-305-en.do)

marginal in Austria (4%), while it amounts to around 16% in France and Germany, and above 50% in Greece.

In general, no problems have been reported on the opposition to the European payment orders. Pursuant to Article 17(2), the effect of the opposition is the transfer of the case to ordinary proceedings. As European payment orders may concern small claims within the meaning of the European Small Claims Regulation, the Commission has proposed to make it possible, after opposition in a European order for payment procedure, to transfer the case also to the European Small Claims procedure, to the extent that this procedure may apply.<sup>23</sup>

### 3.8. Review

The exceptional remedy in Article 20 aims at redressing the situation where the defendant was not aware of the proceedings in the Member State of origin and was not able to properly defend himself. This may happen if for example the address to which the application was sent is not correct. While the Regulation prescribes the conditions for opening the right for a review, the procedure itself is governed by national law. The information on the different review procedures in Member States is published in the European Judicial Atlas.

In Case C-324/12,<sup>24</sup> the Court of Justice ruled that a failure to observe the time-limit for lodging a statement of opposition to a European order for payment, by reason of the negligence of the defendant's representative, does not justify a review of that order for payment pursuant to Article 20, since such a failure to observe the time-limit does not constitute extraordinary or exceptional circumstances within the meaning of that Article.

National procedures implementing the review are very different from one Member State to another and sometimes also different from one European instrument (European enforcement order, European order for payment, Small Claims, maintenance Regulations) to another. Furthermore, implementation of the review procedure under the instruments mentioned above has given rise to questions and uncertainties.

Joined Cases C-119/13 and C-120/13<sup>25</sup> concerned a situation where European payment orders were not or not effectively served on the defendants because they had moved their domicile. The Court ruled that Regulation (EC) No 1896/2006 must be interpreted as meaning that the procedures laid down in Articles 16 to 20 of the Regulation are not applicable where it appears that a European order for payment has not been served in a manner consistent with the minimum standards laid down in Articles 13 to 15 of the Regulation. If such an irregularity is exposed only after a European order for payment has been declared enforceable, the defendant must have the opportunity to raise that irregularity under national law, which, if it is duly established, will invalidate the declaration of enforceability.

The result of the ruling of the Court in Cases C-119/13 and C-120/13 is that a fundamental element of the protection of the rights of the defence in the uniform European order for

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<sup>23</sup> Proposal for a Regulation 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, COM(2013) 794 final.

<sup>24</sup> *Novontech-Zala*, Order of the Court of 21 March 2013.

<sup>25</sup> *Eco cosmetics* (C-119/13) and *Raiffeisenbank St. Georgen* (C-120/13), Judgment of the Court of 4 September 2014.

payment procedure, i.e. the right of a defaulting defendant to request a re-opening of the case in case of deficient service of orders, is considered not regulated by the Regulation, but depends on national law.

In order to ensure that the defendant can raise such irregularities under Union law, the conditions for the review under Article 20 should be clarified in the future by taking inspiration from the more recent provisions in the Maintenance Regulation and the Small Claims revision proposal. This would also enhance the consistency of the instruments on civil law procedure at EU level.

### **3.9. Enforcement**

No specific problems have been reported concerning the enforcement of European orders for payment. One obstacle which has been reported is the lack of transparency of debtors' assets for enforcement purposes in a cross-border context. This issue has, however, a horizontal character and concerns all cross-border enforcement in the EU, not specifically the enforcement of European payment orders.

### **3.10. The Case Law of the European Court of Justice on Unfair Contract Terms and Payment Order Procedures**

The Court of Justice of the European Union has been called, in the context of the application of Directive 93/13/EEC on unfair terms in consumer contracts, to examine the application of national order for payment procedures and their enforcement in the light of the principles of equivalence and effectiveness of EU law. Questions have been raised on whether the Court's rulings have an impact on the use of payment order procedures in consumer disputes. Indeed, the very nature of payment order procedures is based on the concept that the substantive justification of a claim is – in contrast to ordinary court procedures – in principle not examined.

The Court held that in the absence of harmonisation of the national mechanisms for recovery of uncontested claims, the rules implementing national order for payment procedures are a matter for the national legal order, in accordance with the principle of the procedural autonomy of the Member States, on condition, however, that they are no less favourable than those governing similar domestic actions (principle of equivalence) and do not make it in practice impossible or excessively difficult to exercise the rights conferred on consumers by European Union law (principle of effectiveness).<sup>26</sup>

The Court ruled specifically in Case C-618/10 referring to Case C-473/00<sup>27</sup> that the principle of effectiveness precludes national legislation which does not allow the responsible court in the case where a consumer has not lodged an objection, to assess of its own motion, even though it already has the legal and factual elements necessary for that task available to it, whether a term relating to interest on late payments contained in a contract concluded between a seller and a consumer is unfair.

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<sup>26</sup> *Banco Español*, (C-618/10), Judgment of the Court of 14 June 2012.

<sup>27</sup> *Cofidis*, C-473/00, paragraph 35.

According to the Court's case-law the specific characteristics of court proceedings which take place under national law between sellers or suppliers and consumers cannot constitute a factor which is liable to affect the legal protection from which consumers must benefit under the provisions of Directive 93/13/EEC.<sup>28</sup> However, the Court has also underlined in the context of the review of arbitration awards having the effect of *res judicata* that the need to comply with the principle of effectiveness cannot be stretched so far as to mean that a national court is required to make up fully for the total inertia on the part of the consumer concerned.<sup>29</sup>

Other judgments of the Court on the principle of effectiveness<sup>30</sup> concern the payment order procedure after an opposition is lodged, once the claim is continued in ordinary or other civil procedures. In C-618/10, *Banco Español*, the Court distinguishes the specific situation before an opposition in a payment order procedure clearly from the other situations. This case concerned the definition of the national court's responsibilities pursuant to the provisions of Directive 93/13/EEC, in the context of an order for payment procedure, before the consumer has lodged an objection. The Court stresses that every case in which the question arises as to whether a national procedural provision makes the application of European Union law impossible or excessively difficult must be analysed by reference to the role of that provision in the procedure, its progress and its special features, viewed as a whole, before the various national bodies.

Article 8 of the Regulation requires the court to examine whether the claim appears to be founded *on the basis of the information available to it*. Courts have the possibility, if they *prima facie* have doubts as to the justification of the claim or part of it (e.g. interest), to propose in accordance with Article 10 of the Regulation only a partial order to the claimant.<sup>31</sup> In addition, a full appreciation of the substance of the claim is ensured after opposition to the European order for payment, once the claim is pursued in ordinary court proceedings. It can therefore be concluded that the features of the European order for payment procedure duly ensure compliance with the case law of the European Court of Justice.

#### 4. CONCLUSIONS

The European order for payment procedure was introduced to simplify, speed up and reduce the costs of the recovery of outstanding debts, and to provide creditors, in particular SMEs, with a swift and efficient judicial tool, a policy objective as valid today as it was when the Regulation was adopted.

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<sup>28</sup> *Banco Español*, paragraph 46

<sup>29</sup> *Asturcom Telecomunicaciones*, Judgment of the Court of 6 October 2009, paragraph 47.

<sup>30</sup> See C-168/05 *Mostaza Claro*; C-40/08 *Asturcom Telecomunicaciones*; C-243/08 *Pannon GSM*, C-137/08 *VB Pénzügyi Lízing*, C-453/10 *Pereničová and Perenič*.

<sup>31</sup> Please note that also national payment order proceedings allow such *prima facie* verifications. It is not uncommon, for instance, under the French *injonction de payer*, that the court of its own motion reduces excessive claims of interest. Also, the German *Mahnverfahren*, which is to a great degree automated, is designed in such a way as to detect anomalies in the claim which may be addressed *ex officio*, either by proposing only a partial order to the claimant (thus reducing *ex officio* the amount requested) or by refusing the order.

Based on the above evaluation of the functioning of the procedure, it appears that the Regulation generally functions in a sound and satisfactory manner. The application of the Regulation has generally improved, simplified and accelerated the handling of uncontested pecuniary claims in cross-border disputes. In the light of this, it is therefore considered not appropriate at this time to change the fundamental parameters of the European procedure.

However, the European procedure is not sufficiently known among businesses, citizens, practitioners, and courts. Further awareness-raising is necessary, both at European and at Member State level. Efficient and active promotion of the Regulation should take place, providing the general public and professionals with information on the European order for payment procedure.

In addition, the operation of the Regulation may be improved through non-legislative and implementation measures. The Commission will use the cooperation mechanism of the *European Judicial Network in Civil and Commercial Matters* in a proactive manner to improve the implementation and promote the take-up of this useful instrument. The operation of the procedure could further be improved by ensuring its electronic processing and by Member States giving further consideration to the suitability of centralisation of the handling of cases under the procedure.

## Annex

### Statistical data on the use of the European order for payment procedure

The data cover the years 2012 – 2013. Except indicated otherwise in the table, the data relate to the year 2012.

	<b>Num- ber of appli- cations</b>	<b>Pay- ment orders for enforce- ment</b>	<b>Applica- tions returned for comple- tion/ rectifi- cation</b>	<b>Modifi- cation of the applica- tion</b>	<b>Number of opposi- tions</b>	<b>Number of pay- ment orders issued</b>	<b>Length of procee- dings</b>
<b>Belgium</b>	319	•	a few	a few	•	261	1-2 weeks
<b>Bulgaria</b>	109	54	14	1	4	82	30 days
<b>Czech Republic (2013)</b>	358	•	•	•	•	210	2 weeks to 6 months
<b>Germany</b>	4,130	•	85%	5%	633	90%	2-3 weeks
<b>Estonia</b>	6	2	3	2	1	2	1 week to 5 months
<b>Ireland</b>	189	11	65	0	51	134	2 weeks
<b>Greece</b>	168	•	•	0	>50%	149	1-2 months
<b>Spain</b>	63	•	•	•	•	72***	8 months
<b>France</b>	335	•	118	•	+/- 16%	305	2 months
<b>Cyprus (2013)</b>	11	4	1	0	2	9	2 weeks – 5 months
<b>Lithuania</b>	9	23	0	•	5	7	30 days
<b>Luxembourg (2013)</b>	218	173	102	59	31	127	1-2 months

<b>Hungary</b> (2013)	442	144	•	•	24	489***	0-3 months (350 cases); 3-6 months (139 cases)
<b>Malta</b>	1	0	0	•	0	4***	1 week
<b>Netherlands</b>	372 (in 2011)	•	80%	10%	80	194	5 months
<b>Austria</b>	4,367 (2012) 2,119 (2013)	•	237 (2012) 129 (2013)	2 (2012) 1 (2013)	175 (2012) 212 (2013)	4,092 (2012) 2,074 (2013)	1,5 - 4 months (2013)
<b>Poland</b>	1,800 since 2008	0	263	50	194	1,016	4.5 months
<b>Portugal</b>	485 (2012)  296 (2013)	97 (2012)  166 (2013)	10 (2012)  25 (2013)	•	•	•	(2012) 5 months
<b>Slovenia</b>	12	35	1	5	1	7	5 months
<b>Slovakia</b> (2013)	86	8	14	4	16	54	1-9 months
<b>Sweden</b> (2013)	91	27	83	•	23	62	142 days (85 days for applica- tions declared non- admiss- able etc.)
<b>Finland</b> (2013)	633	•	less than 10	less than 10	52	about 400	2 months

<b>UK</b> (2013)	208	108	No data from England and Wales or Scotland  5 (Northern Ireland)	No data from England and Wales or Scotland  1 (Northern Ireland)	No data from England and Wales or Scotland  5 (Northern Ireland)	No data from England and Wales  1 (Scotland)  23 (Northern Ireland)	No data from any UK jurisdic- tion
<b>Croatia*</b>	•	•	•	•	•	•	•
<b>Italy**</b>	•	•	•	•	•	•	•
<b>Latvia</b>	•	•	•	•	•	•	•
<b>Romania</b>	•	•	•	•	•	•	•

- No data provided

\* Please note that Croatia joined the EU only on 1 July 2013.

\*\* There are no separate statistics for European Payment Orders; they are statistically treated together with national payment orders.

\*\*\* Including applications from previous years.