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## **\*\*\*|** **REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
establishing a European Small Claims Procedure  
(COM(2005)0087 – C6-0082/2005 – 2005/0020(COD))

Committee on Legal Affairs

Rapporteur: Hans-Peter Mayer

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council establishing a European Small Claims Procedure (COM(2005)0087 – C6-0082/2005 – 2005/0020(COD))

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0087)<sup>1</sup>,
  - having regard to Article 251(2) and Article 61(c) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0082/2005),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0387/2006),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

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Text proposed by the Commission

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Amendments by Parliament

Amendment 1  
Recital 1

(1) The **European Union** has set itself the objective of maintaining and developing **the European Union as** an area of freedom, security and justice in which the free movement of persons is ensured. For the gradual establishment of such an area, the Community is to adopt, **among others, the measures relating to** judicial cooperation in civil matters needed for the proper functioning of the internal market.

(1) The **Community** has set itself the objective of maintaining and developing an area of freedom, security and justice in which the free movement of persons is ensured. For the gradual establishment of such an area, the Community is to adopt, **inter alia, measures in the field of** judicial cooperation in civil matters **having cross-border implications and** needed for the proper functioning of the internal market.

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<sup>1</sup> Not yet published in OJ.

Amendment 2  
Recital 1 a (new)

***(1a) According to Article 65(c) of the Treaty, these measures are to include measures eliminating obstacles to the good functioning of civil proceedings, if necessary by promoting the compatibility of rules on civil procedure applicable in the Member States.***

Amendment 3  
Recital 2 a (new)

***(2a) The European Council meeting in Tampere on 15 and 16 October 1999 invited the Council and the Commission to establish common procedural rules for simplified and accelerated cross-border litigation on small consumer and commercial claims.***

Amendment 4  
Recital 2 b (new)

***(2b) On 30 November 2000, the Council adopted a joint programme of the Commission and the Council of measures for implementation of the principle of mutual recognition of decisions in civil and commercial matters. The programme refers to simplifying and speeding up the settlement of cross-border litigation on small claims. This was taken forward by the Hague Programme, adopted by the European Council on 5 November 2004, which called for work to be actively pursued on small claims.***

Amendment 5

Recital 4

(4) Many Member States have introduced simplified civil procedures for *Small Claims* since costs, ***delay and vexation*** connected with litigation do not necessarily decrease proportionally with the amount of the claim. The obstacles to obtaining a fast and inexpensive judgment are intensified in cross-border cases. It is therefore necessary to create a European Small Claims Procedure. The objective of such a European procedure should be to facilitate access to justice ***by purveying a procedure of moderate duration at affordable*** costs.

(4) Many Member States have introduced simplified civil procedures for *small claims* since costs, ***delays and complexities*** connected with litigation do not necessarily decrease proportionally with the amount of the claim. The obstacles to obtaining a fast and inexpensive judgment are intensified in cross-border cases. It is therefore necessary to establish a European Small Claims Procedure. The objective of such a European procedure should be to facilitate access to justice. ***The distortion of competition within the internal market due to the imbalances with regard to the functioning of the procedural means afforded to creditors in different Member States entails the need for Community legislation which guarantees a level playing field for creditors and debtors throughout the European Union. It should be necessary to have regard to the principles of simplicity, speed, proportionality when setting the costs of dealing with a claim under the European Small Claims Procedure. It should be appropriate that details of costs to be charged are made public, and that the means of setting any such costs are transparent.***

Amendment 6

Recital 5

(5) ***The distortion of competition within the internal market due to the disequilibrium with regard to the functioning of the procedural means afforded to creditors in different Member States entails the need for Community legislation which guarantees a level playing field for creditors and debtors throughout the***

***deleted***

**European Union.**

Amendment 7

Recital 6

**(6) *The European Small Claims Procedure should apply also to purely domestic cases in order to eliminate distortions of competition between economic operators in different Member States and to facilitate access to justice under equal conditions in all Member States.*** *deleted*

Amendment 8

Recital 7

(7) The European Small Claims Procedure should simplify and speed up litigation concerning small claims, whilst reducing costs, by offering an optional tool in addition to the possibilities existing under the laws of the Member States, which will remain unaffected. This Regulation should also make it simpler to obtain the recognition and enforcement of a judgment given in a European Small Claims Procedure in another Member State, ***including judgements which were initially of a purely domestic nature.***

(7) The European Small Claims Procedure should simplify and speed up litigation concerning small claims ***in cross-border cases***, whilst reducing costs, by offering an optional tool in addition to the possibilities existing under the laws of the Member States, which will remain unaffected. This Regulation should also make it simpler to obtain the recognition and enforcement of a judgment given in a European Small Claims Procedure in another Member State.

Amendment 9

Recital 7 a (new)

***(7a) This Regulation seeks to promote the fundamental rights and takes into account the principles recognised in particular by the Charter of Fundamental Rights of the European Union. The court or tribunal shall respect the right to a fair trial and the***



***principle of an adversarial process, in particular when deciding on the necessity of an oral hearing and on the means of proof and the extent to which evidence is taken.***

Amendment 10  
Recital 7 a (new)

*(Does not affect English version.)*

*Justification*

*The German term ‘Bagatellverfahren’ [used in the explanatory memorandum to the Commission document, though not in the text of the proposal] is misleading, as a ‘bagatelle’ is something that is not worth claiming.*

Amendment 11  
Recital 7 b (new)

***(7b) For the purposes of facilitating calculation of the value of a claim, all interest, expenses and outlays should be disregarded. This should not affect the power of the court to award these in the judgment nor the national rules on the calculation of interest.***

Amendment 12  
Recital 8

(8) In order to facilitate the introduction of the procedure, the claimant should commence the European Small Claims Procedure by completing a claim form and lodging it at the competent court or tribunal.

(8) In order to facilitate the introduction of the procedure, the claimant should commence the European Small Claims Procedure by completing a claim form and lodging it ***solely*** at the competent court or tribunal.

Amendment 13  
Recital 8 a (new)

***(8a) The claim form should be accompanied, where appropriate, by any relevant supporting documents. However, this does not prevent the claimant from submitting, where appropriate, further evidence during the procedure. The same principle should apply to the response by the defendant.***

Amendment 14  
Recital 8 b (new)

***(8b) The concepts of "clearly unfounded" and "inadmissible" in the context of the dismissal of an application are to be determined in accordance with national law.***

Amendment 15  
Recital 9

(9) In order to reduce costs and delays, documents should be served on the parties by registered letter with acknowledgment of receipt, or by any simpler means such as simple letter, fax or email. The procedure should be a written procedure, unless an oral hearing is considered necessary by the court or tribunal. ***The parties should not be obliged to be represented by a lawyer.***

(9) In order to reduce costs and delays, documents should be served on the parties by registered letter with acknowledgment of receipt, or by any simpler means such as simple letter, fax or email. The procedure should be a written procedure, unless an oral hearing is considered necessary by the court or tribunal ***or if a party so requests. The court may refuse such a request. Such refusal may not be contested. The court or tribunal will hold an oral hearing at one party's request or if it considers an oral hearing necessary in the light of the evidence presented. An oral hearing is also a hearing within the meaning of Article 6.***

Amendment 16  
Recital 9 a (new)

***(9a) The parties should not be obliged to be represented by a lawyer or another legal professional.***

Amendment 17  
Recital 9 b (new)

***(9b) The concept of "counterclaim" should be interpreted within the meaning of Article 6(3) of Regulation (EC) No 44/2001 of 22 December 2000 as arising from the same contract or facts on which the original claim was based, in the court in which the original claim is pending. Articles 2, 3, 4(3), 4(4) and 4(4a) should apply to counterclaims with the suitable or necessary modifications. A set-off asserted before the claim is lodged does not constitute a counterclaim for this purpose.***

Amendment 18  
Recital 9 c (new)

***(9c) The Member State addressed for the purposes of the application of Article 4a is the Member State where the service is to be effected or to where the document is to be dispatched. In order to reduce costs and delays, documents should be served on the parties primarily by postal service attested by an acknowledgment of receipt, including the date of receipt.***

Amendment 19  
Recital 10

(10) The *court or tribunal should be given the possibility to hold a hearing through an audio, video or email conference. It should also be given the possibility to determine the means of proof and the extent of the taking of evidence according to its discretion and admit the taking of evidence through telephone, written statements of witnesses, and audio, video or email conferences.*

(10) *In the context of hearings and the taking of evidence, the Member States should encourage the use of modern communication technology. The court or tribunal should use the simplest and least costly means of taking evidence.*

Amendment 20  
Recital 11

(11) *The court or tribunal should respect the principle of an adversarial process.* *deleted*

Amendment 21  
Recital 12

(12) *In order to speed up the resolution of disputes, the judgment should be rendered within six months following the registration of the claim.* *deleted*

Amendment 22  
Recital 12 a (new)

*(12a) The practical assistance to be made available to the parties in order to complete the forms should include technical information concerning the availability and completion of the forms.*

Amendment 23  
Recital 12 b (new)

***(12b) The information about procedural questions can also be given by the court staff.***

Amendment 24  
Recital 12 c (new)

***(12c) In view of the objectives of this Regulation to simplify and speed up litigation concerning small claims, the court or tribunal should act as soon as possible even in cases where this Regulation does not prescribe any time limit for a specific phase of the procedure.***

Amendment 25  
Recital 12 d (new)

***(12a) For the purposes of calculating time limits provided for in this Regulation, Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits<sup>1</sup> should apply.***

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

Amendment 26  
Recital 13

(13) In order to speed up the recovery of small claims, the judgment should be ***immediately*** enforceable notwithstanding any possible appeal and without the condition of the provision of a security.

(13) In order to speed up the recovery of small claims, the judgment should be enforceable notwithstanding any possible appeal and without the condition of the provision of a security ***except as provided in***

*this Regulation.*

Amendment 27  
Recital 13 a (new)

***(13a) Any reference in this Regulation to an appeal should include any possible means of appeal available under national law.***

Amendment 28  
Recital 13 b (new)

***(13b) The court or tribunal must include a person qualified to hold the office of judge. In order to ensure an inexpensive procedure, the judge shall be entitled to exercise discretion with the aim of avoiding disproportionate costs.***

Amendment 29  
Recital 13 c (new)

***(13c) Whenever the court or tribunal is required to set a deadline, the claimant must be informed of the consequences of missing that deadline.***

Amendment 30  
Recital 14

***(14) In order to reduce costs, when the unsuccessful party is a natural person and***

***(14) The unsuccessful party should bear the costs of the proceedings. Costs of the***

*is not represented by a lawyer or another legal professional, he should not be obliged to reimburse the fees of a lawyer or another legal professional of the other party.*

*proceedings should be determined in accordance with national law. Having regard to the objectives of simplicity and cost-effectiveness, the court or tribunal should only order that an unsuccessful party be obliged to pay for the costs of the proceedings, including for example any costs resulting from the fact that the other party was represented by a lawyer or other legal professional, or any costs arising from the service or translation of documents, which are proportionate to the value of the claim or were necessarily incurred.*

Amendment 31  
Recital 15 a (new)

*(15a) As set out in this Regulation, there should be minimum standards for the review of a judgment in situations where the defendant was not able to contest the claim.*

Amendment 32  
Recital 15 b (new)

*(15b) Having regard to the objectives of simplicity and cost-effectiveness, the party seeking enforcement should not be required to have an authorised representative or an address in the Member State of enforcement, other than with the agents with competence for the enforcement procedure in accordance with national law of that Member State.*

Amendment 33  
Recital 15 c (new)

***(15c) Chapter III of this Regulation should also apply to the determination of costs and expenses made by officers of the court due to a judgment issued pursuant to the procedure specified in this Regulation.***

Amendment 34  
Recital 16

***(16) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. Specifically, it seeks to ensure full respect for the right to a fair trial as recognised in Article 47 of the Charter.***

***deleted***

Amendment 35  
Recital 17

(17) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision ***1999/468/EC*** of ***28 June 1999*** laying down the procedures for the exercise of implementing powers conferred on the Commission.

(17) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision ***2006/512/EC*** of ***17 July 2006*** ***amending Decision 1999/468/EC*** laying down the procedures for the exercise of implementing powers conferred on the Commission.

Amendment 36  
Recital 17 a (new)

***(17a) The threshold laid down in this Regulation may only be altered in***



*accordance with the procedure laid down in Article 251 of the EC Treaty.*

Amendment 37  
Article 1, paragraph 1

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

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

Amendment 38  
Article 1, paragraph 2

This Regulation also eliminates the intermediate measures necessary to enable recognition and enforcement, in other Member States, of judgments, *with the exception of judgments on uncontested claims*, given in one Member State in a European Small Claims Procedure.

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

Amendment 39  
Article 2, paragraph 1

1. This Regulation shall apply in civil and commercial matters, whatever the nature of the court or tribunal, where the *total* value of a *monetary or non-monetary* claim excluding interests, expenses and outlays does not exceed EUR 2000 at the time the

1. This Regulation shall apply in *cross-border* civil and commercial matters, whatever the nature of the court or tribunal, where the value of a claim excluding interests *attaching thereto and excluding* expenses and outlays does not exceed

*procedure is commenced.* It shall not apply, in particular, to revenue, customs or administrative matters.

EUR 2000 at the time the *claim is received by the competent court or tribunal.* It shall not apply, 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.*

Amendment 40

Article 2, paragraph 2, point b

(b) rights in property arising out of a matrimonial relationship, wills and succession,

(b) rights in property arising out of a matrimonial relationship, *maintenance obligations*, wills and succession,

Amendment 41

Article 2, paragraph 2, point g (new)

*(g) tenancies of immovable property, except actions on monetary claims,*

Amendment 42

Article 2, paragraph 2, point h (new)

*(h) violations of privacy and rights relating to personality, including defamation.*

Amendment 43

Article 2, paragraph 3

3. In this Regulation, the term 'Member State' shall mean Member States with the exception of Denmark. *[United Kingdom, Ireland]*

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

Amendment 44  
Article 2 a (new)

*Article 2a*

*Cross-border cases*

**1. For the purposes of this Regulation, a cross-border case is one in which at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the seized court.**

**2. Domicile shall be determined in accordance with Articles 59 and 60 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.**

**3. The relevant moment for determining whether there is a cross-border case is the date on which the claim form is received by the competent court.**

Amendment 45  
Article 3, paragraph 1

1. The claimant shall commence the European Small Claims Procedure by completing the claim form *set out in Annex I* and lodging it *with any relevant additional documents* at the competent court or tribunal. ***The claim form may be lodged*** directly, by post or by any other means of communication such as fax or email acceptable to the Member State in which the procedure is commenced.

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

Amendment 46  
Article 3, paragraph 3

**3. The court or tribunal shall register the claim form immediately on receipt and note the date and time of receipt of all other documents it receives in the European Small Claims Procedure.** *deleted*

Amendment 47  
Article 3, paragraph 4

**4. For the purpose of the interruption of periods of prescription or, as the case may be, limitation, the court or tribunal is deemed to be seized when the claim form is registered in accordance with paragraph 3.** *4. The value shall be determined by the court or tribunal when the claim is received, if the subject of the procedure is not a specified monetary amount. This decision may not be challenged.*

Amendment 48  
Article 3, paragraph 5

**5. Where a claim form does not relate to an action within the scope of this Regulation as set out in Article 2, the court or tribunal shall not treat the claim as a European Small Claim, but proceed to deal with it in accordance with the relevant procedural law applicable in the Member State in which the procedure is conducted. The court or tribunal shall inform the claimant to that effect.** *5. Where a claim does not relate to an action within the scope of this Regulation, the court or tribunal shall inform the claimant to that effect. Unless the claimant withdraws it, the court or tribunal shall proceed with the claim in accordance with the relevant procedural law applicable in the Member State in which the procedure is conducted.*

Amendment 49  
Article 3, paragraph 6

**6. Where the court or tribunal considers that the information provided by the claimant is insufficiently clear or adequate or if the claim form is not completed properly, it may** *6. Where the court or tribunal considers that the information provided by the claimant is insufficiently clear or adequate or if the claim form is not completed properly, and*

give the claimant the opportunity to complete or rectify the form or to supply such supplementary information or documents as it may specify.

***unless the claim appears to be clearly unfounded or the application to be inadmissible, it shall give the claimant the opportunity to complete or rectify the form or to supply such supplementary information or documents or to withdraw the claim, and within such period, as it specifies. The court shall use standard form B.***

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

Amendment 50  
Article 3, paragraph 7

7. Member States shall ensure that the claim form is available at all courts or tribunals at which the European Small Claims Procedure can be commenced, ***and that practical assistance is available at all such courts or tribunals to assist claimants to complete the form.***

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

Amendment 51  
Article 4, paragraph 1

1. The European Small Claims Procedure shall be a written procedure, ***unless*** an oral hearing ***is deemed*** to be necessary ***by*** the court or tribunal ***which shall take into account any observations or demands of the parties in this respect.***

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

Amendment 52  
Article 4, paragraph 2

2. After receiving the claim form, the court or tribunal shall complete part I of the answer form set out in *Annex II*.

*It shall serve* a copy of the claim form, together with the answer form thus completed on the defendant *within 8 days of receiving the claim form*, in accordance with Article 11.

2. After receiving the *properly completed* claim form, the court or tribunal shall complete part I of the answer form set out in *standard form C*.

A copy of the claim form, *and where applicable, of the supporting documents*, together with the answer form thus completed, *shall be served* on the defendant in accordance with Article 11. *These documents shall be dispatched within 14 days of receiving the properly completed claim form.*

Amendment 53  
Article 4, paragraph 3

3. The defendant shall submit his response within *one month* of service of the claim form and answer form, by filling in Part II of *the answer* form, *adding* any *additional* documents and returning it to the court or tribunal, or in any other appropriate way not using the answer form.

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

Amendment 54  
Article 4, paragraph 4

4. Within *eight* days of receipt of the response from the defendant, *the court or tribunal shall serve* a copy *of the response* and any *additional* documents *on* the claimant *in accordance with Article 11*.

4. Within *14* days of receipt of the response from the defendant, a copy *together with* any *relevant supporting* documents *shall be dispatched to* the claimant.

Amendment 55  
Article 4, paragraph 4 a (new)

***4a. If in his response the defendant claims that the value of a non-pecuniary claim exceeds the limit set out in Article 2(1), the court shall decide within 30 days after dispatching the response to the claimant whether the claim is within the scope of this Regulation.***

Amendment 56  
Article 4, paragraph 5

***5. If, in his response, the defendant makes a counterclaim against the claimant, the court or tribunal shall inform the claimant of that counterclaim. The claimant shall respond to the counterclaim within one month of service of the response.***

***5. Any counterclaim, to be submitted using standard form A, and any relevant supporting documents shall be served on the claimant in accordance with Article 11. These documents shall be dispatched within 14 days of receipt.***

***The claimant has 30 days from service to respond to any counterclaim.***

***A set-off asserted out of court does not have to be made on standard form A.***

Amendment 57  
Article 4, paragraph 6

***6. If the total value of the counterclaim exceeds the amount set out in Article 2 (1), the court or tribunal shall only consider the counterclaim if it arises from the same legal relationship as the claim and if the court or tribunal considers it appropriate to proceed in the European Small Claims Procedure.***

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

***Articles 2, 3, 4(3), 4(4) and 4(4a) shall apply, mutatis mutandis, to counterclaims.***

Amendment 58  
Article 4, paragraph 7

*7. If any additional document received by the court or tribunal is in a language other than the language in which the procedure is conducted, the court or tribunal shall only require a translation of that document, if the translation is necessary for rendering the judgment.* *deleted*

*If a party has refused to accept a document because it is not in one of the languages provided for in Article 8 of Regulation (EC) No 1348/2000, the court or tribunal shall inform the other party thereof and advise it to provide a translation.*

Amendment 59  
Article 4 a (new)

*Article 4a*

*Language*

*1. Answer forms, responses, any counterclaims and any descriptions of relevant evidence shall be submitted in the language of the court or tribunal.*

*2. If any additional document received by the court or tribunal is in a language other than the language in which the procedure is conducted, the court or tribunal may only require a translation of that document if the translation is necessary for rendering the judgment.*

*3. If a party refuses to accept a document because it is not in:*

*(a) the official language of the Member State addressed, or, if there is more than one official language in that Member*



*State, the official language or one of the official languages of the place where service is to be effected; or*

*(b) a language of the Member State of transmission which the addressee understands,*

*the court or tribunal shall inform the other party thereof in order for it to provide a translation.*

Amendment 60  
Article 5

1. Within **one month** following receipt of the response from the defendant or the claimant within the time limits laid down in Article 4 (3) and (5), the court or tribunal shall

(a) *deliver a judgment*, or

(b) *demand further details concerning the claim from the parties within a specified period of time*, or

(c) *summon the parties to a hearing*.

2. If the court or tribunal has not received an answer from the **defendant** within the time **limit** laid down in Article 4 (3), the court or tribunal shall deliver a **default** judgment.

1. Within **30 days** following receipt of the response from the defendant or the claimant within the time limits laid down in Article 4(3) and (5), the court or tribunal shall **deliver a judgment**, or

(a) *demand further details concerning the claim from the parties within a specified period of time, not exceeding 30 days*, or

(aa) *take evidence in accordance with Article 7*, or

(b) *summon the parties to a hearing to be held within 30 days of the summons*.

**2. The court or tribunal shall render the judgment within 30 days of any hearing or after having received all information necessary for delivering the judgment. The judgment shall be served on the parties in accordance with Article 11.**

3. If the court or tribunal has not received an answer from the **relevant party** within the time **limits** laid down in Article 4(3) or (5), the court or tribunal shall deliver a judgment **on the claim or on the counterclaim**.

Amendment 61  
Article 6

1. The court or tribunal may hold a hearing through an *audio*, video *or email* conference, if the technical means are available *and if both parties agree*.

2. *If a party does not attend the hearing and another person represents that party, the court or tribunal may ask that person to present a mandate or other authorization in writing from that party, if this is required by the procedural law applicable in the Member State in which the procedure is conducted.*

The court or tribunal may hold a hearing through a video conference *or other communications technology* if the technical means are available.

Amendment 62  
Article 7, paragraph 1

1. The court or tribunal *may* determine the means of *proof* and the extent *to which* evidence *is taken according to* its *discretion*. *In particular*, the court may admit the taking of evidence through *telephone*, written statements of witnesses, *and* through an audio, *video* or email *conference*.

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

Amendment 63  
Article 7, paragraph 2

2. *In exceptional circumstances*, the court or tribunal may *receive evidence of* expert *witnesses* if it is *indispensable* for the judgment.

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

Amendment 64  
Article 7, paragraph 2 a (new)

***2a. The court or tribunal shall select the simplest and least burdensome method of taking evidence.***

*Justification*

*There is a need to reconcile the principle of proportionality of the procedure with that of the quality of the judgment, which must be based on sufficient proof. Besides, the proposal's purpose is to simplify the procedure, but not to the point of allowing the court to dispense with all rules on the burden of proof or the hierarchy of methods of taking evidence.*

*The most costly methods are those of expert assessment and witness. So paragraph 2 limits recourse to these methods. To use them the judge must first have considered whether or not they are indispensable to his decision.*

*The final paragraph is of general application and explains the principle of proportionality.*

Amendment 65  
Article 8 a (new)

***Article 8a***

***Assistance for the parties***

***Member States shall ensure that the parties can receive practical assistance in completing the forms.***

Amendment 66  
Article 9, paragraph 3

3. If necessary, the court or tribunal shall ***support*** the parties ***in*** procedural questions ***and may ask them to provide any factual information relevant to the determination of the issues in the case.***

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

Amendment 67  
Article 10, paragraph 1

**1. The judgment shall be rendered within six months following the registration of the claim form.** *deleted*

Amendment 68  
Article 10, paragraph 2

**2. The court or tribunal shall serve the judgment on the parties in accordance with Article 11, unless it is delivered orally at the conclusion of a hearing at which both parties are present.** *deleted*

Amendment 69  
Article 11, paragraph 1

**1. Where documents are to be served in a Member State other than the Member State in which the procedure is conducted, they shall be served on the parties by registered letter with acknowledgment of receipt, respecting any additional conditions provided for in Article 14 of Regulation (EC) No 1348/2000, and having regard to Article 8 thereof.** *1. Documents shall be served by post with proof of receipt showing the date of receipt.*

Amendment 70  
Article 11, paragraph 2

**2. Where documents are to be served in the Member State in which the procedure is conducted and the address of the addressee is known with certainty, documents shall be** *deleted*

*served on the parties by registered letter with acknowledgment of receipt, or by any simpler means such as simple letter, fax or email, if these simpler means are provided for in the procedural law of the Member State in which the procedure is conducted.*

Amendment 71  
Article 11, paragraph 3

3. If, *in exceptional circumstances*, it is not possible to effect service in accordance with *paragraphs 1 and 2*, service may be effected *through other means ensuring personal service*.

3. If it is not possible to effect service in accordance with *paragraph 1*, service may be effected *by any of the methods specified in Articles 13 or 14 of Regulation (EC) No 805/2004 of the European Parliament and of the Council creating a European Enforcement Order for uncontested claims*.

Amendment 72  
Article 12, paragraph –1 (new)

*-1. Where the court or tribunal sets a deadline, the applicant must be informed of the consequences of missing that deadline.*

Amendment 73  
Article 12, paragraph 1

1. The court or tribunal may prolong the time limits provided for in Article 4 (3) and (5), in exceptional circumstances, if necessary in order to *guarantee an effective defence* of the parties.

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

Amendment 74  
Article 12, paragraph 2

2. If, in exceptional circumstances, it is not possible for the court or tribunal to respect the time limits provided for in *Articles 4 (2) and (4)*, Article 5 (1) and ***Article 10 (1) without jeopardising the proper conduct of proceedings***, it shall take the *necessary* steps as soon as possible.

2. If, in exceptional circumstances, it is not possible for the court or tribunal to respect the time limits provided for in *Article 4(2), (3), (4), (4a) and (5) and Article 5(1), (2) and (3)*, it shall take the steps ***required by those provisions*** as soon as possible.

Amendment 75  
Article 12, paragraph 3

***3. For the purpose of calculating the time limits provided for in this Regulation, Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits shall apply.***

*deleted*

Amendment 76  
Article 13, paragraph 1

The judgment shall be ***immediately*** enforceable, notwithstanding any possible appeal. It shall not be necessary to provide a security.

***1.*** The judgment shall be enforceable notwithstanding any possible appeal. It shall not be necessary to provide a security.

Amendment 77  
Article 13, paragraph 1 a (new)

***1a. Article 18c shall also apply in case the judgment is to be enforced in the Member State where the judgment was delivered.***

Amendment 78  
Article 14, paragraph 1

1. The unsuccessful party shall bear the costs of the proceedings, *except where this would be unfair or unreasonable. In that case*, the court or tribunal shall *make any order for payment of expenses on an equitable basis*.

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

Amendment 79  
Article 14, paragraph 2

*2. When the unsuccessful party is a natural person and is not represented by a lawyer or another legal professional, he shall not be obliged to reimburse the fees of a lawyer or another legal professional of the other party.*

*deleted*

Amendment 80  
Article 15, paragraph 1

1. Member States shall inform the Commission whether an appeal is available under their procedural law against a judgment rendered in a European Small Claims Procedure. The Commission shall make that information publicly available.

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

*Justification*

*The proposal does not yet contain any rules governing the time limit for lodging appeals.*

Amendment 81  
Article 15, paragraph 2

**2. In an appeal procedure against a judgment rendered in a European Small Claims Procedure, parties shall not be required to be represented by a lawyer or another legal professional.**

*deleted*

Amendment 82  
Article 15, paragraph 2 a (new)

**2a. Article 14 shall apply to any appeal.**

Amendment 83  
Article 16, title and paragraph 1

Review of the judgment

**Minimum standards for** review of the judgment

**Provided that he acts promptly**, the defendant shall be entitled to apply for a review of the judgment rendered in a European Small Claims *procedure*, **under the conditions established by the law of the Member State in which the judgment has been rendered and communicated to the Commission pursuant to Articles 19 and 30 of Regulation (EC) No 805/2004**, where:

- (a) (i) the claim form or the summons to a hearing were served by a method without proof of receipt by him personally; and
- (ii) service was not effected in sufficient time **or in such a way as** to enable him to arrange for his defence without any fault on his part, or
- (b) the defendant was prevented from objecting to the claim by reason of force majeure, or due to extraordinary circumstances without any fault on his part.

**1.** The defendant shall be entitled to apply for a review of the judgment rendered in a European Small Claims *Procedure* **before the competent court of the Member State of origin**, where:

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



Amendment 84  
Article 16, paragraph 2 (new)

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

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

Amendment 85  
Article 18, paragraph 2

***2. The judgment delivered in a European Small Claims Procedure shall be certified if it does not conflict with the rules on jurisdiction as laid down in sections 3 and 6 of Chapter II of Regulation (EC) No 44/2001.*** *deleted*

***The certificate shall be established in the language of the judgment.***

***No appeal shall lie against the issuing of the certificate.***

***The law of the Member State in which the procedure is conducted shall apply to any rectification of the certificate.***

Amendment 86  
Article 18, paragraph 3

***3. Where, at the time when the judgment is delivered, it is likely that it will have to be enforced in another Member State, the certificate shall be issued ex officio at the time of the delivery of the judgment. Otherwise the certificate shall be issued if***

***3. At the request of a party the court or tribunal shall issue the form concerning a judgment in the European Small Claims Procedure using standard form D at no extra cost.***

*requested by one of the parties.*

Amendment 87  
Article 18, paragraph 4

***4. A party seeking enforcement of a judgment shall produce:*** *deleted*

***(a) a copy of the judgment which satisfies the conditions necessary to establish its authenticity; and***

***(b) the certificate referred to in paragraph 1.***

Amendment 88  
Article 18, paragraph 5

***5. Paragraphs 1 to 4 shall not apply to judgments on uncontested claims within the meaning of Article 3 (1) of Regulation (EC) No 805/2004.*** *deleted*

Amendment 89  
Article 18 a (new)

***Article 18a***

***Enforcement procedure***

***1. Without prejudice to the provisions of this Chapter, the enforcement procedures shall be governed by the law of the Member State of enforcement. A judgment delivered in a European Small Claims Procedure shall be enforced under the same conditions as a judgment handed down in the Member State of enforcement.***

***2. The party seeking enforcement shall produce:***

*(a) a copy of the judgment which satisfies the conditions necessary to establish its authenticity; and*

*(b) a copy of the form referred to in Article 18(3) 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 proceedings of the place where enforcement is sought in conformity with the law of that Member State, or into another language that the Member State of enforcement has indicated it can accept. Each Member State may indicate the official language or languages of the institutions of the European Community other than its own which it can accept for the European Small Claims Procedure.*

*3. The party seeking enforcement shall not be required to have:*

*(a) an authorised representative; or*

*(b) a postal address*

*in the Member State of enforcement, other than agents with competence for the enforcement procedure, for the enforcement of a judgment delivered in the European Small Claims Procedure in another Member State.*

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

Amendment 90  
Article 18 b (new)

*Article 18b*

*Refusal of enforcement*

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

*(a) the earlier judgment involved the same cause of action and was between the same parties; and*

*(b) the earlier judgment was given in the Member State of enforcement or fulfils the conditions necessary for its recognition in the Member State of enforcement; and*

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

*2. Under no circumstances may the judgment be reviewed as to its substance in the Member State of enforcement.*

Amendment 91  
Article 18 c (new)

*Article 18c*

*Stay or limitation of enforcement*

*Where a party has challenged a judgment delivered in a European Small Claims Procedure or such a challenge is still possible or has made an application for review within the meaning of Article 16, the competent court, tribunal or authority in the Member State of enforcement may,*

*upon application by the party against whom enforcement is sought:*

*(a) limit the enforcement proceedings to protective measures; or*

*(b) make enforcement conditional on the provision of such security as it shall determine; or*

*(c) under exceptional circumstances, stay the enforcement proceedings.*

Amendment 92  
Chapter IV

*Chapter IV*

*deleted*

*Relationship with other Community instruments*

*Article 19*

*Relationship with Regulation (EC)  
No 805/2004 and with Regulation (EC)  
No 44/2001*

*This Regulation shall not affect the application of Regulation (EC) No 805/2004 and of Regulation (EC) No 44/2001.*

Amendment 93  
Article 20

The *competent national authorities* shall cooperate to provide the general public and professional circles with information on the European Small Claims Procedure, in particular via the European Judicial Network in Civil and Commercial Matters established by Decision 2001/470/EC.

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

Amendment 94  
Article 20 a (new)

*Article 20a*

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

*1. By \_\_\_\_\_, 200\_, the  
Member States shall communicate to the  
Commission:*

*(a) which courts or tribunals have  
jurisdiction to issue a judgment in a  
European Small Claims Procedure;*

*(b) means of communication for the  
purposes of the European Small Claims  
Procedure which are available to the courts  
in accordance with Article 3(1);*

*(c) whether an appeal is available under  
their procedural law in accordance with  
Article 15 and with which court or tribunal  
this may be lodged;*

*d) languages accepted pursuant to  
Article 18a(2)(b);*

*(e) which authorities have competence with  
respect to enforcement and which  
authorities have competence for the  
purposes of the application of Article 18c.*

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

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

Amendment 95  
Article 21

The measures necessary for the  
implementation of this Regulation relating to

The measures necessary for the  
implementation of this Regulation relating to

***modification of the threshold established in Article 2 (1) and*** updates or technical amendments to the forms in the Annexes, ***or the introduction of additional forms*** shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 22 (2).

updates or technical amendments to the forms in the Annexes shall be adopted by the Commission in accordance with the advisory procedure referred to in Article 22(2).

Amendment 96  
Article 22

1. The Commission shall be assisted by the Committee provided for by Article 75 of Regulation (EC) No 44/2001.
2. Where reference is made to this paragraph, ***Articles 3 and 7*** of Decision 1999/468/EC shall apply having regard to the provisions of Article 8 thereof.
3. The Committee shall adopt its rules of procedure.

1. The Commission shall be assisted by the Committee provided for by Article 75 of Regulation (EC) No 44/2001.
2. Where reference is made to this paragraph, ***Article 5a*** of Decision 1999/468/EC, ***as amended by Decision 2006/512/EC***, shall apply having regard to the provisions of Article 8 thereof.
3. The Committee shall adopt its rules of procedure.

Amendment 97  
Article 22 a (new)

***Article 22a***

***Review***

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

***To this end and in order to ensure that best practice in the European Union is duly***

*taken into account and reflects the principles of better legislation, Member States shall provide the Commission with information relating to the cross-border operation of the European Small Claims Procedure. This information should cover court fees, speed of the procedure, efficiency, ease of use and the internal small claims procedures of the Member States.*

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

Amendment 98  
Article 23

This Regulation shall enter into force on [...].

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

**2.** *It shall apply from 1 January 2009, with the exception of Article 20a, which shall apply from 1 January 2008*

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

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

Amendment 99  
Annex I

*Annex I is replaced by the following text*

<b>EUROPEAN SMALL CLAIMS PROCEDURE</b>
--



**FORM A  
CLAIM FORM**

(Article 3(1) of Regulation (EC)... of the European Parliament and of the Council  
establishing a European Small Claims Procedure)

**To be completed by the court**

**Case number:**

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

**IMPORTANT INFORMATION**

**PLEASE READ THE GUIDELINES AT THE BEGINNING OF EACH SECTION -  
THEY WILL HELP YOU TO COMPLETE THIS FORM**

**Language** Complete this form in the language of the court to which you are sending the application. Please note that the form is available in all official languages of the European Union at [http://ec.europa.eu/justice\\_homejudicialatascivil/html/index\\_en.htm](http://ec.europa.eu/justice_homejudicialatascivil/html/index_en.htm), this may help you in filling in the form in the required language.

**Supporting documents** Please note that the claim form may be accompanied, where appropriate, by any relevant supporting documents. A copy of the claim form and, where appropriate, of the supporting documents, shall be served on the defendant. The defendant will have an opportunity to submit his response thereto.

**1. Court** In this field you need to identify the court at which you are making the claim. When deciding which court to choose, you need to consider the grounds for the court's jurisdiction. A non-exhaustive exemplary list of possible grounds of jurisdiction is included under section 4.

**1. At which court are you making your claim?**

1.1. Name:

1.2. Street and number/PO box:

1.3. City and postal code:

1.4. Country:

**2. Claimant**

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

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

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

**2. The claimant's details**

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

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

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

**3. The defendant's details**

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

---

(\*) optional

#### 4. Jurisdiction

The application must be lodged with the court that has the jurisdiction to deal with it. The court must have jurisdiction in accordance with the rules of EC Regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

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

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

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

<b>4. On what ground do you consider the court has jurisdiction?</b>	<input type="checkbox"/>
4.1. Domicile of the defendant	<input type="checkbox"/>
4.2. Domicile of the consumer	<input type="checkbox"/>
4.3. Domicile of the policyholder, insured or the beneficiary in insurance matters	<input type="checkbox"/>
4.4. Place of performance of the obligation in question	<input type="checkbox"/>
4.5. Place of the harmful event	<input type="checkbox"/>
4.6. Place where the immovable property is situated	<input type="checkbox"/>
4.7. Choice of court agreed by the parties	<input type="checkbox"/>
4.8. Other (please specify)	<input type="checkbox"/>
_____	

**5. Cross-border nature of the case** In order to make use of the European Small Claims procedure, the case must have a cross-border nature. The claim is of a cross-border nature if at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the seized court.

<b>5. Cross-border nature of the case</b>
5.1. Country of domicile or habitual residence of claimant: _____
5.2. Country of domicile or habitual residence of defendant: _____
5.3. Member State of the court: _____

**6. Bank details (optional)** In field 6.1. you may inform the court by what means you intend to pay the application fee. Please note that not all methods are necessarily available at the court to which you are sending the application. You should verify which methods of payment will be accepted by the court. You can do this by contacting the court concerned or by consulting the website of the European Judicial Network in civil and commercial matters at <http://ec.europa.eu/civiljustice>

(\*) optional

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

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

## **6. Bank details (\*)**

### **6.1. How will you pay the court fees?**

- 6.1.1. By bank transfer
- 6.1.2. By credit card  (please fill in Annex I)
- 6.1.3. Direct debit from the claimant's bank account  (please fill in Annex I)
- 6.1.4. Other (please specify): \_\_\_\_\_

### **6.2. To which account do you wish the defendant to pay for any amount claimed or awarded?**

- 6.2.1. Account holder:
- 6.2.2. Bank name, BIC or other relevant bank code:
- 6.2.3. Account number/IBAN:

## **7. Claim**

**Scope** The European Small Claims procedure has a limited scope. No claims of a value higher than 2000 EUR or which are listed in Article 2 of the Regulation EC .../2006 can be dealt with under this procedure. Where the claim does not relate to an action within the scope of the Regulation in accordance with Article 2, proceedings will continue before the competent courts in accordance with the rules of ordinary civil procedure. If you do not wish to continue proceedings in that event, you should withdraw your application.

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

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

(\*) optional

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

## 7. About your claim

Please specify your claim:

### 7.1 *Claim for money*

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

7.1.2 Currency:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Euro (EUR)                    | <input type="checkbox"/> Cypriot pound (CYP)    | <input type="checkbox"/> Czech Koruna (CZK)  |
| <input type="checkbox"/> Estonian kroon (EEK)          | <input type="checkbox"/> Pound Sterling (GBP)   | <input type="checkbox"/>                     |
|  | Hungarian Forint (HUF)                          |  |
| <input type="checkbox"/> Latvian Lats (LTL)            | <input type="checkbox"/> Lithuanian Litas (LVL) | <input type="checkbox"/> Maltese Lira (MTL)  |
| <input type="checkbox"/> Polish zloty (PLN)            | <input type="checkbox"/> Swedish Crown (SEK)    | <input type="checkbox"/> Slovak Koruna (SKK) |
| <input type="checkbox"/> Other (please specify): _____ |   |  |

### 7.2 *Other claim:*

7.2.1 Please specify what you are claiming:

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

Currency:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Euro (EUR)                    | <input type="checkbox"/> Cypriot pound (CYP)    | <input type="checkbox"/> Czech Koruna (CZK)  |
| <input type="checkbox"/> Estonian kroon (EEK)          | <input type="checkbox"/> Pound Sterling (GBP)   | <input type="checkbox"/>                     |
|  | Hungarian Forint (HUF)                          |  |
| <input type="checkbox"/> Latvian Lats (LTL)            | <input type="checkbox"/> Lithuanian Litas (LVL) | <input type="checkbox"/> Maltese Lira (MTL)  |
| <input type="checkbox"/> Polish zloty (PLN)            | <input type="checkbox"/> Swedish Crown (SEK)    | <input type="checkbox"/> Slovak Koruna (SKK) |
| <input type="checkbox"/> Other (please specify): _____ |   |  |

### 7.3. *Do you claim the costs of proceedings?*

7.3.1. Yes

7.3.2. No

7.3.3. (\*) If yes, you may specify which costs and indicate the amount claimed or incurred so far:

### 7.4. *Do you claim interest?*

Yes

No

If yes, is the interest:

Contractual  go to 7.4.1

Statutory  go to 7.4.2

7.4.1. if contractual

1) the rate is:

\_\_\_\_\_ %

\_\_\_\_\_ % above the base rate of the ECB

other: \_\_\_\_\_

2) interest to be collected from what date: \_\_\_/\_\_\_/\_\_\_

7.4.2. if statutory, interest to be collected from what date: \_\_\_/\_\_\_/\_\_\_

**8. Details of claim** In 8.1. please describe briefly the substance of your claim.

In 8.2. you should describe relevant supporting evidence. It could be for example documentary evidence (e.g. contract, receipt etc.) or oral or written testimonies by the witnesses. Please indicate which aspect of your claim each piece of evidence is intended to support.

**8. Details of claim**  
**If space is insufficient, you can add additional sheets.**

**8.1. Please give reasons for your claim, for example what happened, where and when**

**8.2. Please describe the evidence you wish to put forward to support your claim and state what points of the claim it supports. Where appropriate, you should add relevant supporting documents.**

8.2.1. Written evidence  please specify below

8.2.2. Witnesses  please specify below

8.2.3. Other  please specify below



(\*) optional



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

**8.3. Do you want an oral hearing to be held?**

Yes

No

If yes, please indicate reasons (\*):

**9. Certificate**

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

**9. Certificate**

I ask the court to deliver a certificate concerning the *judgement*

Yes

No

**10. Date and signature** Please make sure you write clearly your name, sign and date the application on the last page.

**10. Date and signature**

**I hereby request that the court delivers a *judgement* against the defendant on the basis of my claim.**

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

Done at:

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

Name and signature:

(\*) optional

**ANNEX I**  
**to the claim form (Form A)**

Bank details for the purposes of payment of court fees (\*)

**Account holder/Credit Card holder:**

**Bank name, BIC or other relevant bank code/Credit Card Company:**

**Account number or IBAN/Credit Card number:**

**Expiry date and security number of the credit card:**

(\*) optional

Amendment 100  
Annex II

*Annex II is replaced by the following text*

**EUROPEAN SMALL CLAIMS PROCEDURE**  
**FORM B**  
**REQUEST BY THE COURT TO COMPLETE AND/OR RECTIFY THE CLAIM**  
**FORM**  
(Article 3(6) of Regulation (EC)... of the European Parliament and of the Council  
establishing a European Small Claims Procedure)  
*to be completed by the court*

**Case number:**

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

**1. Court**

1.1. Name:

1.2. Street and number/PO box:

1.3. City and postal code:

1.4. Country:

**2. Claimant**

2.1. Surname, first name/Company name:

2.2. Street and number/PO box:

2.3. City and postal code:

- 2.4. Country:  
2.5. Phone (☐):  
2.6. E-mail (\*):  
2.7. Claimant's representative, if any, and contact details:

**2.8. Other details (\*):**

**3. Defendant**

- 3.1. Surname, first name/Company name:  
3.2. Street and number/PO box:  
3.3. City and postal code:  
3.4. Country:  
3.5. Phone (\*):  
3.6. E-mail (\*):  
3.7. Defendant's representative, if any, and contact details:

**3.8. Other details (\*):**

**The court has examined your claim form and considers that it is insufficiently clear or adequate or not properly completed: please complete and/or rectify your form in the language of the court as indicated below as soon as possible and at the latest**

\_\_\_\_\_.

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

**Your claim form has not been completed in the correct language. Please complete it in one of the following languages.**

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

(\*) optional

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

- 
- 
- 
- 
- 

**Done at:**

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

**Signature and/or stamp:**

Amendment 101

Annex III

*Annex III is replaced by the following text*

**EUROPEAN SMALL CLAIMS PROCEDURE**

**FORM C**

**ANSWER FORM**

(Article 4(2) and 4(3) of Regulation (EC) ... of the European Parliament and of the Council establishing a European Small Claims Procedure)

**IMPORTANT INFORMATION AND GUIDELINES FOR THE DEFENDANT**

**A claim as set out in the attached claim form has been submitted against you in the framework of the European Small Claims procedure.**

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

**Please note that if you do not answer within 30 days, the court shall deliver a judgment.**

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

**Please also read the guidelines included in the claim form, these may help you prepare your response.**

**Language** Please reply to the claim in the language of the court which has sent you this form.

Please note that the form is available in all official languages of the European Union at

[http://ec.europa.eu/justice\\_home/judicialatlascivil/html/index.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/index.htm), this may help you in filling in the form in the required language.

**Oral hearing** Please note that the European Small Claims Procedure is a written procedure.

However, you can ask that an oral hearing is held. Please be aware that having regard to the circumstances of the case, the court can refuse this request.

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

**Counterclaim** If you want to make a claim against the claimant (counterclaim), please fill in and attach a separate Form A that you can find on the internet

[http://ec.europa.eu/justice\\_home/judicialatlascivil/html/fillinginformation\\_en.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/fillinginformation_en.htm) or obtain from the court which sent you this application. Please note that for the purposes of the counterclaim you are considered to be the claimant.

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

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

**Part I (to be completed by the court)**

Name of claimant:

Name of defendant:

Court:

Claim:

Case Reference:

**Part II (to be completed by the defendant)**

**1. Do you accept the claim?**

Yes

No

Partially

If no or partially, please indicate reasons:

The claim is out of scope of the European Small Claims procedure   
please specify below

Other   
please specify below

**2. Please describe the evidence you wish to put forward to contest the claim. Please state what points of your answer it supports. Where appropriate, you should add relevant supporting documents.**

- 2.1. Written evidence  please specify below  
2.2. Witnesses  please specify below  
2.3. Other  please specify below

**3. Do you want an oral hearing to be held?**

- Yes   
No

If yes, please indicate reasons (\*):

**4. Do you claim the costs of proceedings?**

- 4.1. Yes   
4.2. No

4.3. (\*) If yes, please specify which costs and if possible, indicate, the amount claimed or incurred so far:

---

(\*) optional

**5. Do you want to make a counterclaim?**

5.1. Yes

5.2. No

5.3. If yes, please fill in and attach a separate Form A

**6. Other information (\*)**

**7. Date and signature**

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

Done at:

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

Name and signature:

---

(\*) optional



**EUROPEAN SMALL CLAIMS PROCEDURE**  
**FORM D**  
**CERTIFICATE CONCERNING A JUDGMENT IN THE EUROPEAN SMALL**  
**CLAIMS PROCEDURE**  
(Article 18(3) of Regulation (EC)... of the European Parliament and of the Council  
establishing a European Small Claims Procedure)  
*to be completed by the court*

**1. Court**

- 1.1. Name:
- 1.2. Street and number/PO box:
- 1.3. City and postal code:
- 1.4. Country:

**2. Claimant**

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

**3. Defendant**

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

(\*) optional

**4. Judgement**

4.1. Date:

4.2. Case number:

4.3. The substance of the *judgement*:

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

1) Principal:

2) Interest:

3) Costs:

4.3.2. The court has made an order against

\_\_\_\_\_ to

**(If the *judgement* is issued by an appeal court)**

**This *judgement* supersedes the *judgement* delivered \_\_\_\_/\_\_\_\_/\_\_\_\_, case number \_\_\_\_\_, and any certificate relative thereto.**

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

**Done at:**

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

**Signature and/or stamp**

19.5.2006

## **OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

for the Committee on Legal Affairs

on the proposal for a European Parliament and Council regulation establishing a European Small Claims Procedure  
(COM(2005)0087 – C6-0082/2005 – 2005/0020(COD))

Draftsman: Alexander Nuno Alvaro

### **SHORT JUSTIFICATION**

In its opinion<sup>1</sup> of 18 June 2003 on the Green Paper on a European order for payment procedure and on measures to simplify and speed up small claims litigation, the European Economic and Social Committee welcomed the Commission's initiative to launch a consultation on this issue and the Commission's effort to accelerate civil proceedings and to make them cheaper and more efficient. It supported the establishment of a European procedure to simplify and speed up small claims litigation.

In its opinion<sup>2</sup> of 12 February 2004 on the Green Paper, the European Parliament welcomed the Commission's initiative, and stated that the small claims procedure should not only apply to cases relating to payment of a sum of money, on the understanding that a limit must first be determined on the basis of the amount at issue, but also be extended to cover all other disputes concerning economic relationships falling under the heading of obligations.

The draft regulation proposed by the Commission provides for a simple, fast and cost-effective written procedure. Contrary to the draft regulation, however, the draftsman considers that the scope of the regulation should be limited to cross-border civil and trade cases. The draftsman therefore welcomes the fact that a reliable definition of the term 'cross-border' was established at the Justice and Home Affairs Council in December 2005, which can now also be applied to small claims. Regarding the possibility of an oral hearing and the taking of evidence, the judge is afforded a considerable room for discretion, which should contribute to the swift conclusion of proceedings. Laying down clear rules on deadlines and languages is in keeping with the task of establishing a simple, fast and cheap procedure for European citizens and is supported by the draftsman.

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<sup>1</sup> OJ C 220, 16.9.2003, p. 5.

<sup>2</sup> European Parliament resolution on the prospects for approximating civil procedural law in the European Union (COM(2002) 746 + COM(2002) 654 – C5-0210/2003 – 2003/2087(INI)), A5-0041/2004.

## AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission<sup>1</sup>

Amendments by Parliament

### Amendment 1 Recital 6

*(6) The European Small Claims Procedure should apply also to purely domestic cases in order to eliminate distortions of competition between economic operators in different Member States and to facilitate access to justice under equal conditions in all Member States.*

*deleted*

### Amendment 2 Recital 7

(7) The European Small Claims Procedure should simplify and speed up litigation concerning small claims, whilst reducing costs, by offering an optional tool in addition to the possibilities existing under the laws of the Member States, which will remain unaffected. This Regulation should also make it simpler to obtain the recognition and enforcement of a judgment given in a European Small Claims Procedure in another Member State, ***including judgements which were initially of a purely domestic nature.***

(7) The European Small Claims Procedure should simplify and speed up litigation concerning small claims, whilst reducing costs, by offering an optional tool in addition to the possibilities existing under the laws of the Member States, which will remain unaffected. This Regulation should also make it simpler to obtain the recognition and enforcement of a judgment given in a European Small Claims Procedure in another Member State.

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<sup>1</sup> Not yet published in OJ.

Amendment 3  
Recital 9

(9) In order to reduce costs and delays, documents should be served on the parties by registered letter with acknowledgment of receipt, or by any simpler means such as simple letter, fax or email. The procedure should be a written procedure, unless an oral hearing is considered necessary by the court or tribunal. The parties should not be obliged to be represented by a lawyer.

(9) In order to reduce costs and delays, documents should be served on the parties by registered letter with acknowledgment of receipt, or by any simpler means such as simple letter, fax or email. The procedure should be a written procedure, unless an oral hearing is considered necessary by the court or tribunal. ***Upon application by one or both parties, the court or tribunal should hold an oral hearing, unless it considers an oral hearing to be unnecessary. Where such application is refused, reasons must be given and the decision may not be contested.*** The parties should not be obliged to be represented by a lawyer.

Amendment 4  
Recital 11

(11) The court or tribunal ***should*** respect the principle of an adversarial process.

(11) The court or tribunal ***shall*** respect ***the right to a fair process and*** the principle of an adversarial process, ***in particular when deciding on the need for an oral hearing, on the means of proof and the extent of the taking of evidence.***

Amendment 5  
Recital 13 a (new)

***(13a) If the court sets a deadline, the claimant must be informed of the consequences of missing that deadline.***

Amendment 6  
Recital 17 a (new)

***(17a) The threshold laid down in this Regulation may only be altered in accordance with the procedure laid down in Article 251 of the EC Treaty.***

Amendment 7  
Recital 17 b (new)

***(17b) Three years after the adoption of this Regulation, the Commission shall present to the European Parliament, the Council and the European Economic and Social Committee a detailed report reviewing the operation of the European Small Claims Procedure. That report shall contain an assessment of the procedure as it has operated and an extended impact assessment for each Member State.***

Amendment 8  
Article 1, paragraph 1

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

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

*Justification*

*In keeping with the agreement of the JHA Council of 1 and 2 December 2005 and in the absence of a binding definition, a case is considered a cross-border case when at least one of the parties in a dispute is domiciled or habitually resident in a Member State other than the Member State of the court or tribunal seized. This compromise, established for the European payment order procedure, should also be applied to the small claims procedure in order to take proper account of the civil law peculiarities, rights and responsibilities of the Member States in this area. In addition, this also takes account of the principle of subsidiarity under Article 5(2) of the EC Treaty.*

Amendment 9  
Article 1 a (new)

*Article 1a*

**1. For the purposes of this Regulation, a cross-border case is one in which at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court or tribunal seized.**

**2. Domicile shall be determined in accordance with Articles 59 and 60 of Council Regulation (EC) No 44/2001 of 22 December 2000.**

**3. The relevant moment for determining whether there is a cross-border case is the time when the claim form is received by the competent court or tribunal.**

*Justification*

*This amendment follows from the previous justification.*

Amendment 10  
Article 2, paragraph 1

1. This Regulation shall apply in civil and commercial matters, whatever the nature of the court or tribunal, where the total value of a monetary or non-monetary claim excluding interests, expenses and outlays does not exceed EUR 2 000 at the time the procedure is commenced. It shall not apply, in particular, to revenue, customs *or* administrative matters.

1. This Regulation shall apply *in cross-border cases* in civil and commercial matters, whatever the nature of the court or tribunal, where the total value of a monetary or non-monetary claim excluding interests, expenses and outlays does not exceed EUR 2 000 at the time the procedure is commenced. It shall not apply, in particular, to revenue, customs, administrative matters *or to cases pertaining to the liability of the State for acts and omissions in the exercise of State authority.*

Amendment 11  
Article 2, paragraph 2, subparagraph 1, point (b)

(b) rights in property arising out of a matrimonial relationship, wills and succession,

(b) rights in property arising out of a matrimonial relationship, ***maintenance obligations***, wills and succession,

*Justification*

*The legislation governing maintenance is not a Union responsibility. It would appear necessary to include a clarification that this regulation will not apply to maintenance obligations.*

Amendment 12  
Article 2, paragraph 2, subparagraph 1, point f a and subparagraph 1 a (new)

***(fa) claims that are not eligible for a simplified procedure under this Regulation as they are governed by specific national provisions.***

***Before adoption of this Regulation, Member States shall notify the Commission of the exemptions from the scope of the Regulation under their national law that are to be included in an Annex to this effect.***

*Justification*

*Legislation in certain areas of the law does not fall within the competence of the European Union. A list of exemptions covering the legal situation in individual Member States is consistent with the Regulation's objective of creating a simple procedure.*

Amendment 13  
Article 3, paragraph 3

3. The court or tribunal shall register the claim form immediately on receipt and note the date and time of receipt of all other documents it receives in the European Small Claims Procedure.

*(Does not affect English version.)*

*Justification*

*(Does not affect English version.)*



Amendment 14  
Article 3, paragraph 5

5. Where a claim form does not relate to an action within the scope of this Regulation as set out in Article 2, the court or tribunal shall not treat the claim as a European Small Claim, but proceed to deal with it in accordance with the relevant procedural law applicable in the Member State in which the procedure is conducted. The court or tribunal shall inform the claimant to that effect.

5. Where a claim form does not relate to an action within the scope of this Regulation as set out in Article 2, the court or tribunal shall not treat the claim as a European Small Claim, but proceed to deal with it in accordance with the relevant procedural law applicable in the Member State in which the procedure is conducted. The court or tribunal shall inform the claimant to that effect ***and shall continue with the procedure under the applicable national procedural law.***

*Justification*

*This is a clarification that not only national procedural law is to be used with regard to this proposal, but that in addition, after notification of the claimant, the procedure will be conducted through official channels under national procedural law.*

Amendment 15  
Article 3, paragraph 6

6. Where the court or tribunal considers that the information provided by the claimant is insufficiently clear or adequate or if the claim form is not completed properly, it ***may*** give the claimant the opportunity to complete or rectify the form or to supply such supplementary information or documents as it may specify.

6. Where the court or tribunal considers that the information provided by the claimant is insufficiently clear or adequate or if the claim form is not completed properly, it ***shall*** give the claimant the opportunity – ***provided the claim is not manifestly unfounded*** – to complete or rectify the form or to supply such supplementary information or documents as it may specify, ***and shall set a time limit of 30 days for that purpose.***

***Where the claim is manifestly unfounded or where the claimant fails to complete or rectify the form within the time limit, the claim shall be dismissed.***

*Justification*

*By setting another time limit, unreasonable procedural delays should be avoided.*

Amendment 16  
Article 3, paragraph 7

7. Member States shall ensure that the claim form is available at all courts or tribunals at which the European Small Claims Procedure can be commenced, **and** that practical assistance is available at all such courts or tribunals to assist claimants to complete the form.

7. Member States shall ensure that the claim form is available **to the claimant, in his language**, at all courts or tribunals at which the European Small Claims Procedure can be commenced, that practical assistance is available at all such courts or tribunals to assist claimants to complete the form, **and that the form is available electronically**.

*Justification*

*This amendment is designed to facilitate access to the simplified European procedure by making forms available on the Internet.*

Amendment 17  
Article 4, paragraph 1

1. The European Small Claims Procedure shall be a written procedure, unless an oral hearing is deemed to be necessary by the court or tribunal which shall take into account any observations or demands of the parties in this respect.

1. The European Small Claims Procedure shall be a written procedure, unless an oral hearing is deemed to be necessary by the court or tribunal which shall take into account any observations or demands of the parties in this respect. **Where an application is made by one or both parties for an oral hearing and the court or tribunal considers an oral hearing unnecessary, reasons must be given for rejection of the application. This decision may not be contested.**

*Justification*

*This amendment aims at clarifying that the parties concerned have the opportunity to have their case heard orally. However, in such cases it is in the court's discretion to grant this request and, if it is rejected, reasons must be given.*

Amendment 18  
Article 4, paragraph 2, subparagraph 2

It shall serve a copy of the claim form, together with the answer form thus completed on the defendant within **8** days of receiving the claim form, in accordance with Article 11.

It shall serve a copy of the claim form, together with the answer form thus completed on the defendant within **14** days of receiving the claim form, in accordance with Article 11.

*Justification*

*The extension of the time limit from eight to fourteen days takes account of court practice and should thus allow for a reasonable work routine.*

Amendment 19  
Article 4, paragraph 4

4. Within ***eight*** days of receipt of the response from the defendant, the court or tribunal shall serve a copy of the response and any additional documents on the claimant in accordance with Article 11.

4. Within ***14*** days of receipt of the response from the defendant, the court or tribunal shall serve a copy of the response and any additional documents on the claimant in accordance with Article 11.

*Justification*

*The extension of the time limit from eight to fourteen days takes account of court practice and should thus allow for a reasonable work routine.*

Amendment 20  
Article 4, paragraph 6

6. If the total value of the counterclaim exceeds the amount set out in Article 2 (1), the court or tribunal ***shall only consider the counterclaim if it arises from the same legal relationship as the claim and if the court or tribunal considers it appropriate to proceed in the European Small Claims Procedure.***

6. If the total value of the counterclaim exceeds the amount set out in Article 2 (1), the court or tribunal ***may consider the counterclaim provided it does not unreasonably delay the procedure.***

***Articles 2 and 3 shall apply mutatis mutandis to counterclaims.***

Amendment 21  
Article 5, paragraph 1, point (b)

(b) demand further details concerning the claim from the parties within ***a specified period of time***, or

(b) demand further details concerning the claim from the parties within ***one month***, or

*Justification*

*The draftsman suggests, following existing procedural law provisions, that the time limit laid down in Article 5 should be set at one month. This provides a more precise time limit than the original wording of 'within a specified period of time'.*

Amendment 22

Article 5, paragraph 1, point (c)

(c) summon the parties to a hearing.

(c) summon the parties to a hearing, ***which must be held within one month of the serving of the summons.***

*Justification*

*This amendment to point (c) contributes to the parties' procedural certainty.*

Amendment 23

Article 5, paragraph 2

***2. If the court or tribunal has not received an answer from the defendant within the time limit laid down in Article 4(3), the court or tribunal shall deliver a default judgment.***

***deleted***

Amendment 24

Article 5, paragraph 2 a (new)

***2a. The court or tribunal shall deliver its judgment immediately after any oral hearing or within one month following receipt of all information required for the judgment. The judgment shall be served on the parties in accordance with Article 11.***

Amendment 25

Article 5, paragraph 2 b (new)

***2b. If the court or tribunal has not received an answer from the party concerned within the time limit laid down in Article 4(3) or***

**(5), the court or tribunal shall deliver a default judgment in respect of the claim or counterclaim.**

**It is necessary to ensure that a default judgment may be delivered only when the application is conclusive.**

*Justification*

*The European Small Claims Procedure should be simple, cost-effective and fast.*

Amendment 26  
Article 7, paragraph 2

2. ***In exceptional circumstances, the*** court or tribunal may receive evidence of expert witnesses if it is indispensable for the judgment.

2. ***The*** court or tribunal may receive evidence of expert witnesses ***only*** if it is indispensable for the judgment. ***It shall take account of the costs.***

*Justification*

*It is in the parties' interest to authorise expert witness evidence if this is the only evidence, or the only key evidence.*

Amendment 27  
Article 10, paragraph 1

1. ***The judgment shall be rendered within six months following the registration of the claim form.***

***deleted***

*Justification*

*A more practicable time limit has already been proposed.*

Amendment 28  
Article 10, paragraph 2

2. The court or tribunal shall serve the judgment on the parties in accordance with Article 11, unless it is delivered orally at the conclusion of a hearing at which both parties are present.

2. The court or tribunal shall serve the judgment on the parties in accordance with Article 11, ***irrespective of whether the decision has been delivered in writing or orally,*** unless it is delivered orally at the conclusion of a hearing at which both parties

are present.

*Justification*

*The court or tribunal should be required to notify the parties of the decision, irrespective of whether it has been delivered in writing or orally.*

Amendment 29  
Article 12, paragraph –1 (new)

***-1. Where the court or tribunal sets a deadline, the applicant must be informed of the consequences of missing that deadline***

Amendment 30  
Article 13

***Article 13***

***deleted***

***Enforceability of the judgment***

***The judgment shall be immediately enforceable, notwithstanding any possible appeal. It shall not be necessary to provide a security.***

Amendment 31  
Article 13 a (new)

***Article 13a***

***Enforceability of the judgment***

***The judgment shall be enforceable immediately it becomes final. A judgment shall become final when the time limit for lodging an appeal has passed without an admissible appeal having been lodged and without application having been made for a review of the judgment in accordance with Article 16. If an appeal is lodged, the judgment shall only be enforceable on provision of a security proportionate to the amount to be enforced.***

Amendment 32  
Article 14, paragraph 2

2. When the unsuccessful party is a natural person and is not represented by a lawyer or another legal professional, **he shall not be obliged to reimburse the fees of a lawyer or another legal professional of the other party.**

2. When the unsuccessful party is a natural person and is not represented by a lawyer or another legal professional, **the court or tribunal shall award to the other party the costs of a lawyer or another legal professional, provided that these remain proportional to the value of the litigation.**

*Justification*

*In contrast to the proposal, this allows the payment of fees of a lawyer or other legal professional. It cannot be to the disadvantage of the victorious party that the other party voluntarily declined to take on a lawyer or to take legal advice.*

Amendment 33  
Article 15, paragraph 3 a (new)

**(3a) Article 14 shall be applied in the case of appeals.**

*Justification*

*This is a necessary reference to Article 14, in order to clarify the rights of the parties as regards appeals lodged.*

Amendment 34  
Article 20 a (new)

**Article 20a**

**Notification requirements**

**1. Following the entry into force of this Regulation, the Member States shall inform the Commission:**

**(a) which courts or tribunals shall be empowered to pass judgment in a European Small Claims Procedure;**

**(b) what means of communication are acceptable for the purposes of the European Small Claims Procedure and are available to the courts or tribunals**

*pursuant to Article 3(1);*

*(c) whether, under the procedural law of the Member States, appeals may be lodged pursuant to Article 15.*

*2. The Member States shall inform the Commission of subsequent changes that have an effect on this information.*

*3. The Commission shall make the information referred to in paragraph 1 publicly available by publication in the Official Journal of the European Union and through other appropriate media.*

*(If this amendment is adopted, Article 3(2) and Article 15(1) will have to be altered accordingly.)*

#### *Justification*

*Article 20a should allow the Commission to establish to what extent the conditions for application of the European Small Claims Procedure have been created in the Member States. At the same time, the Commission's publication requirement is also given concrete expression.*

Amendment 35  
Article 21 a (new)

#### *Article 21a*

##### *Alteration of the threshold*

*The threshold laid down in this Regulation may only be altered in accordance with the procedure laid down in Article 251 of the Treaty.*

*(If this amendment is adopted, Article 21 will have to be altered accordingly.)*

Amendment 36  
Article 22 a (new)

#### *Article 22a*

##### *Assessment*

*By ...<sup>1</sup>, the Commission shall present to the*



***European Parliament, the Council and the European Economic and Social Committee a detailed report reviewing the operation of the European Small Claims Procedure. That report shall contain an assessment of the procedure as it has operated and an extended impact assessment for each Member State.***

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

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

---

<sup>1</sup> *Three years after the entry into force of this Regulation.*

#### *Justification*

*Article 21a and Article 22a correspond to the Commission's proposals as regards better legislation. The sense and the purpose of the new Article 22a are to apply an effective mechanism to monitor the legislation in order to test the regulation regularly to establish whether any changes are necessary.*

## PROCEDURE

<b>Title</b>	Proposal for a European Parliament and Council regulation establishing a European Small Claims Procedure
<b>References</b>	COM(2005)0087 – C6-0082/2005 – 2005/0020(COD))
<b>Committee responsible</b>	JURI
<b>Opinion by</b> Date announced in plenary	LIBE 12.4.2005
<b>Enhanced cooperation – date announced in plenary</b>	
<b>Drafts(wo)man</b> Date appointed	Alexander Alvaro 6.6.2005
<b>Previous drafts(wo)man</b>	
<b>Discussed in committee</b>	14.9.2005      18.4.2006
<b>Date adopted</b>	15.5.2006
<b>Result of final vote</b>	+:                    38 –:                    0 0:                    0
<b>Members present for the final vote</b>	Alexander Alvaro, Roberta Angelilli, Edit Bauer, Johannes Blokland, Mihael Brejc, Kathalijne Maria Buitenweg, Maria Carlshamre, Giusto Catania, Carlos Coelho, Fausto Correia, Kinga Gál, Patrick Gaubert, Elly de Groen-Kouwenhoven, Ewa Klamt, Magda Kósáné Kovács, Barbara Kudrycka, Stavros Lambrinidis, Romano Maria La Russa, Sarah Ludford, Antonio Masip Hidalgo, Claude Moraes, Lapo Pistelli, Martine Roure, Inger Segelström, Antonio Tajani, Ioannis Varvitsiotis, Manfred Weber, Stefano Zappalà, Tatjana Ždanoka
<b>Substitute(s) present for the final vote</b>	Camiel Eurlings, Giovanni Claudio Fava, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Bill Newton Dunn, Marie-Line Reynaud
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Panagiotis Beglitis, Emine Bozkurt, Pasqualina Napoletano
<b>Comments</b> (available in one language only)	...

## PROCEDURE

<b>Title</b>	Proposal for a regulation of the European Parliament and of the Council establishing a European Small Claims Procedure				
<b>References</b>	KOM(2005)0087 – C6-0082/2005 – 2005/0020(COD)				
<b>Date submitted to Parliament</b>	15.3.2006				
<b>Committee responsible</b> Date announced in plenary	JURI 12.4.2005				
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	LIBE 12.4.2005				
<b>Not delivering opinion(s)</b> Date of decision					
<b>Enhanced cooperation</b> Date announced in plenary					
<b>Rapporteur(s)</b> Date appointed	Hans-Peter Mayer 21.4.2005				
<b>Previous rapporteur(s)</b>					
<b>Simplified procedure – date of decision</b>					
<b>Legal basis disputed</b> Date of JURI opinion	/				
<b>Financial endowment amended</b> Date of BUDG opinion	/				
<b>European Economic and Social Committee consulted – date of decision in plenary</b>					
<b>Committee of the Regions consulted – date of decision in plenary</b>					
<b>Discussed in committee</b>	5.10.2005	31.1.2006	23.2.2006	19.4.2006	30.5.2006
<b>Date adopted</b>	24.10.2006				
<b>Result of final vote</b>	24.10.2006				
<b>Members present for the final vote</b>	+: 19				
	–: 0				
	0: 0				
<b>Substitute(s) present for the final vote</b>	Maria Berger, Carlo Casini, Giuseppe Gargani, Piia-Noora Kauppi, Klaus-Heiner Lehne, Alain Lipietz, Antonio López-Istúriz White, Hans-Peter Mayer, Aloyzas Sakalas, Gabriele Stauner, Diana Wallis, Nicola Zingaretti, Jaroslav Zvěřina, Tadeusz Zwiefka				
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Jean-Paul Gauzès, Kurt Lechner, Eva Lichtenberger, Arlene McCarthy, Manuel Medina Ortega, Marie Panayotopoulos-Cassiotou				
<b>Date tabled</b>	Wolf Klinz, Guido Podestà, Riccardo Ventre, Stefano Zappalà				
<b>Comments (available in one language only)</b>	0.0.0000				
	...				