



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 6.12.2006
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2004/0055 (COD)

OPINION OF THE COMMISSION

**pursuant to Article 251 (2), third subparagraph, point (c) of the EC Treaty,
on the European Parliament's amendments
to the Council's common position regarding the
proposal for a**

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

creating a European order for payment procedure

**AMENDING THE PROPOSAL OF THE COMMISSION
pursuant to Article 250 (2) of the EC Treaty**

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1. INTRODUCTION

Article 251(2), third subparagraph, point (c) of the EC Treaty provides that the Commission is to deliver an opinion on the amendments proposed by the European Parliament at second reading. The Commission sets out its opinion below on the 2 amendments proposed by Parliament.

2. BACKGROUND

On 19 March 2004 the Commission adopted a proposal for a Regulation of the European Parliament and of the Council creating a European order for payment procedure¹. The proposal was transmitted to Parliament and the Council on 19 March 2004. On 9 February 2005, the European Economic and Social Committee issued its Opinion on the proposal². The European Parliament referred the proposal to its Legal Affairs Committee (responsible for the report) and its Committee on Public Liberties and Citizens' Rights (for opinion). The Committee on Public Liberties and Citizens' Rights adopted its opinion on 13 June 2005. The Legal Affairs Committee approved its report on 14 July 2005. At the plenary session on 13 December 2005, the European Parliament adopted its opinion in first reading. Council adopted its common position on 30 June 2006. The Commission adopted its communication on the common position of the Council on 4 July 2006.³ The European Parliament adopted its opinion in second reading on 25 October 2006.⁴ This opinion aims at making two amendments to the draft Regulation.

3. PURPOSE OF THE PROPOSAL

The swift recovery of outstanding debts whose justification is not called into question is of paramount importance for economic operators in the European Union and for the proper functioning of the internal market. A legal framework that does not guarantee a creditor access to the rapid settlement of uncontested claims may afford bad debtors a certain degree

¹ COM(2004) 173 final, 19.3.2004 and COM(2004)173 final/3 of 25.5.2004.

² CESE/2005/133, OJ C 221, 8.9.2005, p. 77.

³ COM(2006) 374 final of 7 July 2006.

⁴ P6_TA(2006)0440.

of impunity and thus provide an incentive to withhold payments intentionally to their own advantage. Late payments are a major reason for insolvency threatening the survival of businesses, particularly small and medium-sized ones, and resulting in numerous job losses.

The need to engage in lengthy, cumbersome and costly court proceedings even for the collection of uncontested debts inevitably exacerbates those detrimental economic effects. This situation implies a multi-faceted challenge for the Member States' judicial systems. It has become essential to distinguish the truly contentious cases at the earliest possible stage of the proceedings from those where no real legal dispute exists. Such a differentiation is a necessary, albeit not sufficient condition to make efficient use of the limited resources allocated to the courts. It enables them to concentrate on the controversial litigation and to adjudicate it within a reasonable period of time. This desired result can be achieved, however, only if a speedy and efficient procedure for uncontested claims is available.

The objective of the proposal is to establish a uniform rapid and efficient mechanism for the recovery of uncontested money claims throughout the European Union.

4. OPINION OF THE COMMISSION ON THE AMENDMENTS BY THE EUROPEAN PARLIAMENT

4.1. Amendments accepted by the Commission

- The Commission accepts the amendment of the European Parliament in Standard Form A aiming at moving the warning on languages from the guidelines to the Standard Form to the top of this form.
- The Commission also accepts the amendment in of the European Parliament of Article 31 concerning the exercise of implementing powers and provides that the new regulatory procedure with scrutiny, as created by Council Decision 2006/512 of 22 July 2006, amending Decision 1999/468, shall apply.

5. CONCLUSION

Pursuant to Article 250(2) of the EC Treaty, the Commission amends its proposal as set out above.