

European Commission adopts Green Paper on Effective Enforcement of Judgments in the EU

On 6 March, the European Commission adopted the Green Paper

“Effective Enforcement of judgments in the European Union: The Transparency of Debtor assets”.

As stated in the press release, Vice-President *Franco Frattini*, Commissioner responsible for Justice, Freedom and Security declared:

“The objective of this Green paper is to find possible measures at a European level to improve the transparency of debtors’ assets and the right of creditors to obtain information whilst at the same time respecting the principles of protection of the debtor’s privacy which counterbalances the creditor’s right to efficient recovery” .

The press release continues as follows:

Problems in cross-border debt recovery represent an obstacle to the free circulation of payment orders within the European Union and may impede the proper functioning of the Internal Market. Late payment and non-payment jeopardise the interests of businesses and consumers alike. This is particularly the case when the creditor and the enforcement authorities have no information about the debtor’s whereabouts or his assets.

The search for the debtor’s address and/or for information about his financial situation is often the starting point of enforcement proceedings. At present, transparency of debtors’ assets is generally achieved at a national level through different sources of information, in particular through registers and the debtor’s declaration. While the basic structures of the national systems appear similar, there are considerable differences in the conditions of access, the procedures for obtaining information, the content and the overall efficiency of

the systems. The cross-border recovery of debts is hampered by the differences between the national legal systems and by insufficient knowledge on the part of creditors about the information structures in other Member States. However, the similarity of the underlying structures of the legal systems of the Member States could provide a basis for approximation.

This Green Paper aims to launch a broad consultation among interested parties on how to improve the transparency of debtors' assets which can be provided through registers and by the debtor's declaration. The Commission believes that it is worth taking into account a number of measures that might improve the current situation, helping to ensure that the creditor obtains reliable information on his debtor's assets within a reasonable period of time, and in particular:

- *Drawing up a manual of national enforcement laws and practices*
- *Increasing the information available in and improving access to registers (Commercial registers – Population registers – Social security and tax registers).*
- *Exchange of information between enforcement authorities*
- *Measures relating to the debtor's declaration (a Community instrument setting out the obligation of Member States to introduce a procedure for the taking of a debtor's declaration or the introduction of a uniform "European Assets Declaration).*

The Green Paper, the full press release as well as information on the submission of comments to the Green Paper can be found at the website of the European Judicial Network.

See in this context also the Study JAI/A3/2002/02 on making more efficient the enforcement of judicial decisions within the European Union which has been prepared by the University of Heidelberg under the direction of Prof. Dr. Burkhard Hess on behalf of the European Commission.