ECJ Rules on European Order for Payment

On December 6th, 2012, the Court of Justice of the European Union delivered its first judgment on the European order for payment procedure in Case C-215/11, *Iwona Szyrocka v. SiGer Technologie GmbH.*

In 2011, Mrs Szyrocka, a Polish resident, applied to a Polish court for a European order for payment to be issued against SiGer Technologie Gmbh, a German based company. However, that application did not comply with certain formal requirements laid down by Polish law, in particular the requirement to specify the value of the subject-matter of the dispute, expressed in Polish currency, the principal amount of the claim being stated in euros. Moreover, Mrs Szyrocka claimed interest from a specified date until the date of payment of the principal claim.

Specifying the value of the claim in Polish Zloty.

As a matter of principle, the Court rules that both the wording of the Regulation and its objectives require an interpretation to the effect that Article 7 of Regulation No 1896/2006 governs exhaustively the requirements to be met by an application for a European order for payment.

However, this is different when the Regulation specifically refers to national law.

> *With regard, in particular, to the question whether the national court may, in circumstances such as those in the main proceedings, request the claimant to complete the application for a European payment order by indicating the value of the subject?matter of the dispute expressed in Polish currency, in order to enable the fee for issuing the application to be calculated, it is permissible for that court to rely, for that purpose, on Article 25(2) of Regulation No 1896/2006, which provides that the amount of the court fees is to be fixed in accordance with national law.*

Interest up to the Date of Payment

Article 4 of Regulation No 1896/2006 provides that pecuniary claims the

collection of which is sought under the European order for payment procedure must be for a specific amount and have fallen, whereas Article 7(2)(c) of the regulation provides that if interest on the claim is demanded, the application for a payment order must state the interest rate and the period of time for which that interest is demanded.

The Court rules that it follows from a combined reading of these two provisions that the requirements that the claim must be for a specific amount and have fallen due do not apply to interest, and that Article 7(2)(c) should not be interpreted to the effect that it is not possible to claim interest which has accrued up to the date of payment of the principal, as it might increase the duration and complexity of the European order for payment procedure and add to the costs of such litigation, and eventually deter applicants from resorting to the European procedure.

Final ruling:

1. ***Article 7 of Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure must be interpreted as governing exhaustively the requirements to be met by an application for a European order for payment.***

   Pursuant to Article 25 of that regulation and subject to the conditions laid down therein, the national court remains free to determine the amount of the court fees in accordance with rules laid down by domestic law, provided that those rules are no less favourable than those governing similar domestic actions and do not make it in practice impossible or excessively difficult to exercise the rights conferred by European Union law.

2. ***Articles 4 and 7(2)(c) of Regulation No 1896/2006 must be interpreted as not precluding a claimant from demanding, in an application for a European order for payment, interest for the period from the date on which it falls due until the date of payment of the principal.***

3. ***Where the defendant is ordered to pay to the claimant the interest accrued up to the date of payment of the principal, the national court is***

free to determine the way in which the European order for payment form, set out in Annex V to Regulation No 1896/2006, is to be completed in practice, provided that the form thus completed enables the defendant, first, to be fully aware of the decision that he is required to pay the interest accrued up to the date of payment of the principal and, second, to identify clearly the rate of interest and the date from which that interest is claimed.