

EU Commission Green Paper: Improving the efficiency of the enforcement of judgments in the EU: the attachment of bank accounts

On 24 October 2006, the European Commission adopted a Green Paper on **"Improving the efficiency of the enforcement of judgements in the European Union: the attachment of bank accounts"** (COM(2006) 618 final). The European Commission's newsroom website states:

The problems of cross-border debt recovery is an obstacle to the free circulation of payment orders within the European Union and an impediment for the proper functioning of the Internal Market.

By now, debtors are able to move their monies almost instantaneously, out of accounts known to their creditors into other accounts in the same or another Member State. At the contrary, creditors are not able to block these monies with the same swiftness and when seeking to enforce an order in another Member State they are confronted with legal, procedural and language obstacles which entail additional costs and delays. Above all, under existing Community instruments, it is not possible to obtain a bank attachment of one's debtor's bank account(s) which can be enforced throughout the European Union. Aware of the difficulties of cross-border debt recovery, the EU Commission has decided to concentrate in a first step the public Consultation on protective measures improving the attachment of bank accounts.

The Commission go on to state the need for consistency in the attachment of bank accounts thus:

Enforcement law has often been termed the "Achilles' heel" of the European Civil Judicial Area. While a number of Community instruments provide for the jurisdictional competence of the courts and the procedure to have judgments

recognised and declared enforceable as well as mechanisms for co-operation of courts in civil procedures, no legislative proposal has yet been made for actual measures of enforcement. To date, execution on a court order after it has been declared enforceable in another Member State remains entirely a matter of national law.

Current fragmentation of national rules on enforcement severely hampers cross-border debt collection. While debtors are today able to move their monies, almost instantaneously, out of accounts known to their creditors into other accounts in the same or another Member State creditors are not able to block these monies with the same swiftness thereby risking that their claims remain unpaid. Under existing Community instruments, it is not possible to obtain a bank attachment which can be enforced throughout the European Union.

A consistency of approach amongst the Member States as regards the attachment of bank accounts would remedy to this situation and might also help to avoid potentially discriminatory effects where remedies in different Member States create disparity in outcomes quite apart from the potential, and probably actual, affects on the functioning of the Internal Market.

In addition, a "Green Paper on how to improve the transparency of the debtor's assets will follow by the end of 2007." It would appear that the drive towards a unified set of procedural rules, with the European Payment Procedure Order and the European Small Claims Procedure also at full steam ahead, shows no sign of slowing.

Documents (PDF):

- COM (2006) 618: Improving the efficiency of the enforcement of judgements in the European Union: the attachment of bank accounts
- SEC (2006) 1341: Commission staff working document annex to the green paper on improving the efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts
- IP/06/1460: Improving the efficiency of the enforceability of cross-boarder debt collection

- MEMO/06/398: Green Paper on improving the efficiency of the enforceability of cross-boarder debt collection

Responses to the Green Paper must be submitted no later than **31 March 2007**.

Hat-tip to *Andrew Dickinson* for the link.