EC Regulation Establishing a European Small Claims Procedure Adopted

In its last meeting under the German Presidency (12/13 June 2007), the JHA Council has adopted the text of the **Regulation establishing a European Small Claims Procedure** (ESCP), accepting in their entirety the amendments voted by the European Parliament at first reading.

The reasons for the successful outcome of the negotiations at the very first stage of the codecision procedure are expressed in a Council's note, stressing that

> *In accordance with the joint declaration on practical arrangements for the codecision procedure, informal talks have been held between the Council, the European Parliament and the Commission with a view to reaching an agreement at first reading. The European Parliament delivered its first-reading opinion on 14 December 2006, adopting 105 amendments to the* **Commission proposal**. *The outcome of voting in the European Parliament broadly reflects the compromise agreement reached between the institutions [...].*

The main features of the ESCP are presented as follows in a summary of the Parliament's amendments (see the OEIL page of the Regulation):

> *[T]he procedure should apply only to cross-border cases, rather than be available also for claims within individual Member States as originally proposed by the Commission. [...]*

> *Accordingly, the Regulation will apply, in cross-border cases, where the value of a claim does not exceed EUR 2000 at the time when the claim is received by the competent court or tribunal, excluding all interest, expenses and outlays. It shall not apply, in particular, to revenue, customs or administrative matters or the liability of the State for acts and omissions in the exercise of state authority ("acta iure imperii"). The Regulation will not apply, inter alia, to maintenance obligations; tenancies of immovable property, except actions on monetary claims; violations of privacy and rights relating to personality, including*

defamation.

The ESCP will be a written procedure. The Regulation provides for a specific form, available in all EU official languages, to be used to submit a claim under the ESCP. It would also facilitate the recognition and the enforcement of an ESCP judgment in all Member States by eliminating any intermediate measures required by a Member State to enforce the decision. The claim form will include a description of evidence supporting the claim and be accompanied, where appropriate, by any relevant supporting documents. The claim form, the response, any counterclaim, any response to a counterclaim and any description of relevant supporting documents shall be submitted in the language of the court or tribunal. If any other 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 require a translation of that document only if the translation appears to be necessary for rendering the judgment. The Member States shall ensure that the parties can receive practical assistance in completing the forms.

[...] The court or tribunal must render the judgment within 30 days of any hearing or after having received all information necessary for delivering the judgment. The court may hold a hearing through a video conference or other communications technology if the technical means are available.

Parliament substantially amended the enforcement procedure, the refusal of enforcement and stay of enforcement. The enforcement procedures will be governed by the law of the Member State of enforcement. A judgment delivered in a European Small Claims Procedure will be enforced under the same conditions as a judgment handed down in the Member State of enforcement. Under no circumstances may the judgment be reviewed as to its substance in the Member State of enforcement.

After the signature by the President of the European Parliament and the President of the Council, the ESCP Regulation will be soon published in the Official Journal. **It will apply in all Member States, with the exception of Denmark, from 1 January 2009**.