

## THE EUROPEAN ORDER FOR PAYMENT

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For over a year now, Regulation (EC) No. 1896/2006 creating a European order for payment procedure has been in force throughout the European Community.



This Regulation is a new, significant result in promoting the diffusion of cross-border trading transactions as it provides **creditors domiciled or habitually resident in a Member State with the faculty of freely applying for an order for payment in a cross-border Member State directly c/o the debtor's Court having jurisdiction, without intermediate proceedings of enforcement.**

With the European order for payment the European Union's legislative body provides creditors wanting to work cross-border with other member states with the opportunity of obtaining an order for payment that is immediately executive and enforceable in all the member states, with the exception of Denmark.

The guidelines of the procedure are:

- No need for the claimant to be represented by a lawyer and to travel anywhere as the order for payment application can be submitted either in hardcopy by regular mail or in any other forms of electronic communication
- a standard and downloadable procedure in all the official languages of the European Union, is available via the following link: [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/epo\\_filling\\_it\\_en.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/epo_filling_it_en.htm)
- the same website provides information facilitating the identification of the competent court
- the application doesn't require any written evidence of the credit being claimed
- the European order becomes enforceable 30 days after service of notice on the defendant
- if the defendant lodges a statement of opposition (within 30 days from service of notice), the proceedings shall continue before the competent courts of the Member State of origin in

accordance with the relative rules of ordinary civil procedure.

### Italian internal procedure provides:

- the application must be submitted only in Italian
- the competent court must be identified compliant to the ordinary Italian laws on the subdivision both on territorial and value competency
- the cost of the application depends on the amount of the credit, e.g. € 85,00 for a credit up to € 10.000,00 or € 170,00 for a credit up to € 50.000,00
- the application can be submitted personally or sent in by post as an information technology system is still not available
- in the event of opposition by the defendant and if the claimant chooses to continue the proceedings in Italy it is necessary to do so in accordance with the long and formal national rules of ordinary civil procedure: at this step (for credits higher than € 516,00) creditor must be represented by a lawyer and must mandatorily provide documental evidence of the credit.

As to the **other Member States** we understand that:

- normally each State only accepts applications in their own language, with the exception of **France** that also accept applications in English, Italian, German, and Spanish. **Estonia** accept Hungarian. **Cyprus** accept English. **Luxemburg** accept French and English and finally **Slovenia** also accept Italian and Hungarian.
- the Court of Berlin is the unique competent Court for all Germany.
- an information technology system for the European order for payment applications is presently only operating in Austria.

**Debt collection** and the ensuing difficulties between business operators with head offices and subsidiaries in different countries are undoubtedly issues concerning all creditors. The HK International Network are ideally placed to assist businesses in recovering any outstanding debts.

The HK International Network can provide further information about this important regulation. If you need assistance please contact an HK International Network member near you.