

## Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure

### CHAPTER II

#### THE EUROPEAN SMALL CLAIMS PROCEDURE

##### Article 4

##### Commencement of the Procedure

1 The claimant shall commence the European Small Claims Procedure by filling in standard claim Form A, as set out in Annex I, and lodging it with the court or tribunal with jurisdiction directly, by post or by any other means of communication, such as fax or e-mail, acceptable to the Member State in which the procedure is commenced. The claim form shall include a description of evidence supporting the claim and be accompanied, where appropriate, by any relevant supporting documents.

2 Member States shall inform the Commission which means of communication are acceptable to them. The Commission shall make such information publicly available.

3 Where a claim is outside the scope of this Regulation, the court or tribunal shall inform the claimant to that effect. Unless the claimant withdraws the claim, the court or tribunal shall proceed with it in accordance with the relevant procedural law applicable in the Member State in which the procedure is conducted.

4 Where the court or tribunal considers the information provided by the claimant to be inadequate or insufficiently clear or if the claim form is not filled in properly, it shall, unless the claim appears to be clearly unfounded or the application inadmissible, give the claimant the opportunity to complete or rectify the claim form or to supply supplementary information or documents or to withdraw the claim, within such period as it specifies. The court or tribunal shall use standard Form B, as set out in Annex II, for this purpose.

Where the claim appears to be clearly unfounded or the application inadmissible or where the claimant fails to complete or rectify the claim form within the time specified, the application shall be dismissed. [<sup>F1</sup>The court or tribunal shall inform the claimant of such dismissal and whether an appeal is available against such dismissal.]

[<sup>F25</sup> Member States shall ensure that the standard claim Form A is available at all courts and tribunals before which the European Small Claims Procedure can be commenced, and that it is accessible through relevant national websites.]

#### Textual Amendments

- F1** Inserted by Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure.
- F2** Substituted by Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European order for payment procedure.

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 861/2007 of the European Parliament and of the Council, CHAPTER II. (See end of Document for details)*

## Article 5

### Conduct of the Procedure

[<sup>F21</sup> The European Small Claims Procedure shall be a written procedure.

1a The court or tribunal shall hold an oral hearing only if it considers that it is not possible to give the judgment on the basis of the written evidence or if a party so requests. The court or tribunal may refuse such a request if it considers that, with regard to the circumstances of the case, an oral hearing is not necessary for the fair conduct of the proceedings. The reasons for refusal shall be given in writing. The refusal may not be contested separately from a challenge to the judgment itself.]

2 After receiving the properly filled in claim form, the court or tribunal shall fill in Part I of the standard answer Form C, as set out in Annex III.

A copy of the claim form, and, where applicable, of the supporting documents, together with the answer form thus filled in, shall be served on the defendant in accordance with Article 13. These documents shall be dispatched within 14 days of receiving the properly filled in claim form.

3 The defendant shall submit his response within 30 days of service of the claim form and answer form, by filling in Part II of standard answer Form C, accompanied, where appropriate, by any relevant supporting documents, and returning it to the court or tribunal, or in any other appropriate way not using the answer form.

4 Within 14 days of receipt of the response from the defendant, the court or tribunal shall dispatch a copy thereof, together with any relevant supporting documents to the claimant.

5 If, in his response, the defendant claims that the value of a non-monetary claim exceeds the limit set out in Article 2(1), the court or tribunal shall decide within 30 days of dispatching the response to the claimant, whether the claim is within the scope of this Regulation. Such decision may not be contested separately.

6 Any counterclaim, to be submitted using standard Form A, and any relevant supporting documents shall be served on the claimant in accordance with Article 13. Those documents shall be dispatched within 14 days of receipt.

The claimant shall have 30 days from service to respond to any counterclaim.

7 If the counterclaim exceeds the limit set out in Article 2(1), the claim and counterclaim shall not proceed in the European Small Claims Procedure but shall be dealt with in accordance with the relevant procedural law applicable in the Member State in which the procedure is conducted.

Articles 2 and 4 as well as paragraphs 3, 4 and 5 of this Article shall apply, *mutatis mutandis*, to counterclaims.

#### Textual Amendments

- F2** Substituted by [Regulation \(EU\) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation \(EC\) No 861/2007 establishing a European Small Claims Procedure and Regulation \(EC\) No 1896/2006 creating a European order for payment procedure.](#)

## Article 6

### Languages

1 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 or one of the languages of the court or tribunal.

2 If any other document received by the court or tribunal is not in the language in which the proceedings are conducted, the court or tribunal may require a translation of that document only if the translation appears to be necessary for giving the judgment.

3 Where a party has refused to accept a document because it is not in either of the following languages:

- a the official language of the Member State addressed, or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected or to where the document is to be dispatched; or
- b a language which the addressee understands,

the court or tribunal shall so inform the other party with a view to that party providing a translation of the document.

## Article 7

### Conclusion of the Procedure

1 Within 30 days of receipt of the response from the defendant or the claimant within the time limits laid down in Article 5(3) or (6), the court or tribunal shall give a judgment, or:

- a demand further details concerning the claim from the parties within a specified period of time, not exceeding 30 days;
- b take evidence in accordance with Article 9; or
- c summon the parties to an oral hearing to be held within 30 days of the summons.

2 The court or tribunal shall give the judgment either within 30 days of any oral hearing or after having received all information necessary for giving the judgment. The judgment shall be served on the parties in accordance with Article 13.

3 If the court or tribunal has not received an answer from the relevant party within the time limits laid down in Article 5(3) or (6), it shall give a judgment on the claim or counterclaim.

## *[<sup>F2</sup>Article 8*

### Oral hearing

1 Where an oral hearing is considered necessary in accordance with Article 5(1a), it shall be held by making use of any appropriate distance communication technology, such as videoconference or teleconference, available to the court or tribunal, unless the use of such technology, on account of the particular circumstances of the case, is not appropriate for the fair conduct of the proceedings.

Where the person to be heard is domiciled or habitually resident in a Member State other than the Member State of the court or tribunal seised, that person's attendance at

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an oral hearing by way of videoconference, teleconference or other appropriate distance communication technology shall be arranged by making use of the procedures provided for in Council Regulation (EC) No 1206/2001<sup>(1)</sup>.

2 A party summoned to be physically present at an oral hearing may request the use of distance communication technology, provided that such technology is available to the court or tribunal, on the grounds that the arrangements for being physically present, in particular as regards the possible costs incurred by that party, would be disproportionate to the claim.

3 A party summoned to attend an oral hearing through distance communication technology may request to be physically present at that hearing. The standard claim Form A and the standard answer Form C, established in accordance with the procedure referred to in Article 27(2), shall provide information to the parties that the recovery of any costs incurred by a party as a result of being physically present at the oral hearing, upon request of that party, is subject to the conditions laid down in Article 16.

4 The decision of the court or tribunal on a request provided for in paragraphs 2 and 3 may not be contested separately from a challenge to the judgment itself.]

#### Textual Amendments

- F2** Substituted by [Regulation \(EU\) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation \(EC\) No 861/2007 establishing a European Small Claims Procedure and Regulation \(EC\) No 1896/2006 creating a European order for payment procedure.](#)

### *F2* Article 9

#### Taking of evidence

1 The court or tribunal shall determine the means of taking evidence, and the extent of the evidence necessary for its judgment, under the rules applicable to the admissibility of evidence. It shall use the simplest and least burdensome method of taking evidence.

2 The court or tribunal may admit the taking of evidence through written statements of witnesses, experts or parties.

3 Where the taking of evidence involves a person being heard, that hearing shall be carried out in accordance with the conditions set out in Article 8.

4 The court or tribunal may take expert evidence or oral testimony only if it is not possible to give the judgment on the basis of other evidence.]

#### Textual Amendments

- F2** Substituted by [Regulation \(EU\) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation \(EC\) No 861/2007 establishing a European Small Claims Procedure and Regulation \(EC\) No 1896/2006 creating a European order for payment procedure.](#)

## Article 10

### Representation of parties

Representation by a lawyer or another legal professional shall not be mandatory.

## [<sup>F2</sup>Article 11

### Assistance for the parties

1 The Member States shall ensure that it is possible for the parties to receive both practical assistance in filling in the forms and general information on the scope of application of the European Small Claims Procedure, as well as general information as to which courts or tribunals in the Member State concerned are competent to give a judgment in the European Small Claims Procedure. That assistance shall be provided free of charge. Nothing in this paragraph requires the Member States to provide for legal aid or for legal assistance in the form of a legal assessment of a specific case.

2 The Member States shall ensure that information on the authorities or organisations competent to give assistance in accordance with paragraph 1 is available at all courts and tribunals before which the European Small Claims Procedure can be commenced, and is accessible through relevant national websites.]

#### Textual Amendments

- F2** Substituted by [Regulation \(EU\) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation \(EC\) No 861/2007 establishing a European Small Claims Procedure and Regulation \(EC\) No 1896/2006 creating a European order for payment procedure.](#)

## Article 12

### Remit of the court or tribunal

1 The court or tribunal shall not require the parties to make any legal assessment of the claim.

2 If necessary, the court or tribunal shall inform the parties about procedural questions.

3 Whenever appropriate, the court or tribunal shall seek to reach a settlement between the parties.

## [<sup>F2</sup>Article 13

### Service of documents and other written communications

1 The documents referred to in Article 5(2) and (6) and judgments given in accordance with Article 7 shall be served:

- a by postal service, or
- b by electronic means:

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- (i) where such means are technically available and admissible in accordance with the procedural rules of the Member State in which the European Small Claims Procedure is conducted and, if the party to be served is domiciled or habitually resident in another Member State, in accordance with the procedural rules of that Member State; and
- (ii) where the party to be served has expressly accepted in advance that documents may be served on him by electronic means or is, in accordance with the procedural rules of the Member State in which that party is domiciled or habitually resident, under a legal obligation to accept that specific method of service.

The service shall be attested by an acknowledgment of receipt including the date of receipt.

2 All written communications not referred to in paragraph 1 between the court or tribunal and the parties or other persons involved in the proceedings shall be carried out by electronic means attested by an acknowledgment of receipt, where such means are technically available and admissible in accordance with the procedural rules of the Member State in which the European Small Claims Procedure is conducted, provided that the party or person has accepted in advance such means of communication or is, in accordance with the procedural rules of the Member State in which that party or person is domiciled or habitually resident, under a legal obligation to accept such means of communication.

3 In addition to any other means available in accordance with the procedural rules of the Member States for expressing acceptance in advance, as required under paragraphs 1 and 2, of the use of electronic means, it shall be possible to express such acceptance by means of the standard claim Form A and the standard answer Form C.

4 If service in accordance with paragraph 1 is not possible, service may be effected by any of the methods provided for in Article 13 or 14 of Regulation (EC) No 1896/2006.

If communication in accordance with paragraph 2 is not possible, or, on account of the particular circumstances of the case, not appropriate, any other method of communication admissible under the law of the Member State in which the European Small Claims Procedure is conducted may be used.]

#### **Textual Amendments**

- F2** Substituted by [Regulation \(EU\) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation \(EC\) No 861/2007 establishing a European Small Claims Procedure and Regulation \(EC\) No 1896/2006 creating a European order for payment procedure.](#)

#### *Article 14*

#### **Time limits**

1 Where the court or tribunal sets a time limit, the party concerned shall be informed of the consequences of not complying with it.

2 The court or tribunal may extend the time limits provided for in Article 4(4), Article 5(3) and (6) and Article 7(1), in exceptional circumstances, if necessary in order to safeguard the rights of the parties.

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3 If, in exceptional circumstances, it is not possible for the court or tribunal to respect the time limits provided for in Article 5(2) to (6) and Article 7, it shall take the steps required by those provisions as soon as possible.

### *Article 15*

#### **Enforceability of the judgment**

1 The judgment shall be enforceable notwithstanding any possible appeal. The provision of a security shall not be required.

2 Article 23 shall also apply in the event that the judgment is to be enforced in the Member State where the judgment was given.

### *<sup>F1</sup>Article 15a*

#### **Court fees and methods of payment**

1 The court fees charged in a Member State for the European Small Claims Procedure shall not be disproportionate and shall not be higher than the court fees charged for national simplified court procedures in that Member State.

2 The Member States shall ensure that the parties can pay the court fees by means of distance payment methods which allow the parties to make the payment also from a Member State other than the Member State in which the court or tribunal is situated, by offering at least one of the following methods of payment:

- a bank transfer;
- b credit or debit card payment; or
- c direct debit from the claimant's bank account.]

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#### **Textual Amendments**

- F1** Inserted by [Regulation \(EU\) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation \(EC\) No 861/2007 establishing a European Small Claims Procedure and Regulation \(EC\) No 1896/2006 creating a European order for payment procedure.](#)

### *Article 16*

#### **Costs**

The unsuccessful party shall bear the costs of the proceedings. However, the court or tribunal shall not award costs to the successful party to the extent that they were unnecessarily incurred or are disproportionate to the claim.

### *Article 17*

#### **Appeal**

1 Member States shall inform the Commission whether an appeal is available under their procedural law against a judgment given in the European Small Claims Procedure and

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within what time limit such appeal shall be lodged. The Commission shall make that information publicly available.

[<sup>F2</sup> Articles 15a and 16 shall apply to any appeal.]

#### Textual Amendments

- F2** Substituted by [Regulation \(EU\) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation \(EC\) No 861/2007 establishing a European Small Claims Procedure and Regulation \(EC\) No 1896/2006 creating a European order for payment procedure.](#)

### [<sup>F2</sup> Article 18

#### Review of the judgment in exceptional cases

1 A defendant who did not enter an appearance shall be entitled to apply for a review of the judgment given in the European Small Claims Procedure before the competent court or tribunal of the Member State in which the judgment was given, where:

- a the defendant was not served with the claim form, or, in the event of an oral hearing, was not summoned to that hearing, in sufficient time and in such a way as to enable him to arrange for his defence; or
- b the defendant was prevented from contesting the claim by reason of *force majeure* or due to extraordinary circumstances without any fault on his part,

unless the defendant failed to challenge the judgment when it was possible for him to do so.

2 The time limit for applying for a review shall be 30 days. It shall run from the day the defendant was effectively acquainted with the contents of the judgment and was able to react, at the latest from the date of the first enforcement measure having the effect of making the property of the defendant non-disposable in whole or in part. No extension of the time limit may be granted.

3 If the court rejects the application for a review referred to in paragraph 1 on the basis that none of the grounds for a review set out in that paragraph apply, the judgment shall remain in force.

If the court decides that a review is justified on any of the grounds set out in paragraph 1, the judgment given in the European Small Claims Procedure shall be null and void. However, the claimant shall not lose the benefit of any interruption of prescription or limitation periods where such an interruption applies under national law.]

#### Textual Amendments

- F2** Substituted by [Regulation \(EU\) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation \(EC\) No 861/2007 establishing a European Small Claims Procedure and Regulation \(EC\) No 1896/2006 creating a European order for payment procedure.](#)



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### *Article 19*

#### **Applicable procedural law**

Subject to the provisions of this Regulation, the European Small Claims Procedure shall be governed by the procedural law of the Member State in which the procedure is conducted.

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- (1) [<sup>F2</sup>Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters (OJ L 174, 27.6.2001, p. 1).]

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**Textual Amendments**

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