

Position Paper

UEAPME¹ position on the Public Consultation on a European Small Claims Procedure

1. Introduction

UEAPME welcomes the Public Consultation on a European Small Claims Procedure and the possibility to comment on it regarding the experience that was gained by the SMEs in the various Member States.

Although UEAPME is of the opinion that the European Small Claims Procedures could be a helpful tool for SMEs solving cross border disputes regarding payment issues, it is currently not used much in practice. Reasons for this are that it is mostly unknown among SMEs. Sometimes it is even unknown by judges (one case was reported to us in which a claim was declined because the judge did not know at all about the existence of the European Small Claims Procedure). Therefore an awareness raising campaign on the existence, and of course also on the benefits, of the small claims procedure needs to be developed in cooperation with the representative SME organisations.

Furthermore, there are a couple of practical barriers as to why the current European Small Claims Procedure is not used much in practice, at least not by SMEs, which is outlined below.

2. Opinion on the current state of the European Small Claims Procedure

As mentioned above, one of the main reasons that SMEs do not use the European Small Claims Procedure much in practice is that it is unknown to most of them.

However, SMEs that are aware of this procedure inform us that the costs hold them back from either using it or using it profusely. The costs for ensuring a claim in the European Small Claims Procedure are still potentially high compared to the value of the claim if you consider the translation costs and the costs of cross border enforcement.

In our opinion the application forms for the European Small Claims Procedure are comprehensible but there are some surrounding problems. First of all, the search for the competent authority is not easy, at least not for the average SME. The problematic is also that the forms can only be introduced in the language which is accepted by the competent authorities. For the most part of Member States only the language of the competent court will be accepted, hence the language barrier remains unless one invests in a professional translation, which is of course costly. In addition, most Member States do not provide free of charge assistance in completing the application forms. Such assistance free of charge could certainly help increase the use of the European Small Claims Procedure.

Once an SME has successfully participated in the European Small Claims Procedure and actually also won the case, the problems are still not solved for it. Very often they face problems with the national enforcement rules

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](#).

and procedures in situations where the judgment resulting from the European Small Claims Procedures is to be enforced in another Member State. UEAPME is of the opinion that Member States should be required to provide more structured and updated information on the national enforcement procedures for the judgments resulting from the European Small Claims Procedure. This could maybe be done via a central website on the European Judicial Network.

3. Conclusion

As it is also true for many other European initiatives, they are designed to improve the lives of citizens, SMEs and companies in general, but in practice they do not reach the people on the ground in the various Member States. Even though the European Small Claims Procedure could be very helpful for European enterprises, in particular SMEs, it is not used because it is not known.

Raising awareness amongst SMEs through their representative business organisations and those working closely with SMEs, e.g. accounts, is fundamental for promoting the success of the Small Claims Procedure.

Once the initiatives are known by the target audience, many of them are not really target oriented with regard to the practical details. Looking at the high costs normally surrounding the European Small Claims Procedure it is obvious that not much attention was drawn to the Think Small First principle when the procedure was drafted in the first place. Relatively high costs for claims for enforcing claims up to a maximum of 2000 Euros, in addition to some practical problems with detecting the competent public authority in another Member States and possible language barriers will obviously not encourage many SMEs to make use of the European Small Claims Procedure. Bearing in mind that SMEs comprise 99,8 % of all European Companies, UEAPME urges policy makers to keep the Think Small First principle in mind, from the drafting phase of the procedure until its implementation.

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