

## EUROPEAN ORDER FOR PAYMENT

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What is a European order for payment?

This procedure may help you obtain quickly the repayment of the sums owed by a debtor.

It only applies to cross-border disputes (“litiges transfrontaliers”) id est. the disputes in which at least one of the parties lives in a country that is part of the European Union but not the country where the jurisdiction was seized.

A European order for payment effective in the member country where it was issued is recognized and carried out in the other member states. There is no need to issue a declaration attesting the enforceability of the order and no one can object to its acknowledgment.

Legal basis:

- Regulation (EC) No 1896/2006 of the European Parliament and of the Council of December 12<sup>th</sup> 2006, JOUE n°L.399 (Official Journal of the European Union), December 12<sup>th</sup> 2006.
- French code of civil procedure (« code de procédure civile »), Articles 1424 to 1425 created by decree No 2008-1346, december 17<sup>th</sup> 2008, concerning European orders for payment procedure, JORF (Official gazette of the French Republic), December 19<sup>th</sup> 2008.

When can you get a European order for payment?

This procedure can be used for any sum of money that is due. Its goal is to recover the conventional monetary, liquid debts, due for payment at the date of introduction of the application.

This procedure is optional. Consequently, the plaintiff may claim a debt while using the national procedure for an order for payment.

### How to proceed?

Choose the competent jurisdiction

A choice has to be made according to your particular situation.

Normally, the court jurisdiction to issue a European order for payment lays within the member state where the defendant lives (for legal entities and companies, the domicile is defined according to their head office, their central administration or their main office).

Thirteen other possibilities of court jurisdiction exist in the application form (see thereafter Form A, sidebar No3).

You want to start a European order for payment procedure before the Commercial court of Paris

I. Application

1° Fill up the application form A (accepted languages: French, English, German, Italian, Spanish)

2° Submit or send the application to the Registry ("le greffe") by mail.

3° The jurisdiction controls as quickly as possible if the application has merits.

4° If legal requirements aren't met, the court gives the applicant the possibility to complete or modify the application (except if the application has clearly no merits or is inadmissible). The applicant replies within the time limit fixed by the jurisdiction, by filing the form C.

## II. Dismissal of the application or issuing of a European order for payment

1° In case of dismissal, the plaintiff is given the grounds of the decision, bearing in mind that the decision cannot be appealed (the plaintiff may apply a second time for a European order for payment or for any other procedure of the French legal system).

or

2° If the conditions are fulfilled, the jurisdiction issues the European order for payment within 30 days pursuant the introduction of the application.

## III. Notification of the European order for payment to the defendant(s)

1° A certified true copy of the application form and of the decision is notified, by the applicant, to each defendant. The objection F form (objecting to the European order for payment) must be attached to the notification act. This act must include the indication of the court before which the objection must be brought, of the time limit and the formal requirements to make an objection.

or

2° If the notification is made to the defendant, the bailiff (« l'huissier de justice ») must inform him/her orally of the important informations (as defined by the European order for payment form) as well as the indications mentioned in 1°.

## IV. Enforceable objection or European order for payment

1° The defendant may object to the European order for payment before the original jurisdiction by filing an F form.

2° The objection is made at the Registry through either a declaration under receipt, or a registered letter, within 30 days pursuant the notification of the European order for payment to the defendant.

or

3° When no objection has been made in within the time limit, the registrar attests the enforceability of the European order for payment and put the order of enforcement on document.

4° The jurisdiction sends the European order for payment to the applicant.

## V. Application for a re-examination

1° Beyond the 30 day time limit, the defendant may apply for the re-examination of the European order for payment before the jurisdiction that issued it, in the following exceptional instances:

- If the European order for payment has been notified without enabling the defendant to prepare his/her

defence.

- If the defendant was denied his/her right to object to the debt because of a case of force majeure or of extraordinary circumstances.
- If the European order for payment has clearly been wrongfully issued.

2° If the application for re-examination is dismissed, the European order for payment remains valid.

3° If the re-examination is justified, the European order for payment is null and void.

## VI. Enforcement

1° The applicant must provide the authorities enforcing the European order for payment with a copy of the European order for payment together with, if need be, a translation of the order in the official language of the member country where the order is being enforced or in any other language that the member country accepts.

2° When the defendant applies for a re-examination, the competent court of the member state of enforcement may:

- Limit the enforcement procedure to protective measures.
- Subordinate the enforcement to the constitution of a security interest determined by it.
- In extraordinary circumstances, suspend the enforcement procedure.

3° On the defendant's request, the execution may be denied by the competent jurisdiction in the member country of enforcement if the European order for payment is incompatible with a decision made or with an order previously issued in any member country or any third party country when:

- The decision made or the order previously issued has already been occurred between the same parties in a dispute and concerning the same issue, and that
- The decision made or the order previously issued fulfil all the requirements to be recognized in the member country of enforcement, and that
- The inconsistency could not have been raised during the judicial procedure in the original member country.

4° The enforcement is also denied if the defendant gave the applicant the amount stated in the European order for payment.

(N.B.: a European order for payment cannot be subject to re-examination on its substance in the member country of enforcement)

## Fees

Before the Commercial court, the applicant advances the procedural fees which are deposited at the Registry not later than within 15 days pursuant the application.

The objection is made without fees before the court clerk ("le greffier"). The latter immediately asks the applicant, through a registered letter with return receipt, to deposit the fees at the Registry within 15 days pursuant the application.

To know the fees for an application for a European order for payment, [click here](#).

You want to start a European order for payment procedure before a foreign country's jurisdiction

1° Online on the website of the European Commission concerning the European order for payment, select the country before which jurisdiction you wish to apply.

2° Fill the application form A relating to the country concerned, in a language accepted by it and address it to the competent jurisdiction with the chosen means of communication.

3° The European order for payment procedure before the foreign country's jurisdiction is regulated by both the Regulation (EC) No 1896/2006 and the procedure of the member country concerned.