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## MODULE IV

### SUBJECT 13

**REGULATION (EC) Nº 861/2007 OF 11  
JULY 2007 ESTABLISHING A EUROPEAN  
SMALL CLAIMS PROCEDURE**

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## **A. Introduction**

If we take legislators literally, claims up to € 2,000 would be “minor” claims, that is, “small claims”, and legal disputes concerning such matters can be termed “petits litiges”. However, Regulation (EC) No 861/2007 of 11 July 2007, on the introduction of a European procedure for small claims is by no means a minor regulation; rather it is a European Code of Civil Procedure *en miniature*. The small claims procedure, enforceable as of 1 January 2009, is described below.

## **B. Background**

Regulation (EC) No 44/2001 (henceforth Brussels 1) harmonised the rules on international jurisdiction in rulings and also on the prerequisites for the declaration of enforceability of foreign claims throughout Europe<sup>1</sup>, while Regulation (EC) No 805/2004 creating a European enforcement order for uncontested claims removes even the requirement of a declaration of enforceability<sup>2</sup>. Both have eased cross-border payment in European actions.

The Commission noticed from the first the need for a wider scope of action under Articles 61 (c), 65 (c) and 67 EC, greater scope for action to be necessary<sup>3</sup>. Its aim was not only to improve the free movement of national enforcement orders, but also to harmonise the procedure to obtain these – that is, contentious proceedings – hitherto left to the individual Member States’ jurisdiction. However, the Commission had to bear in mind not only a desire for further regulation, but it also had to consider economic issues. Consumers and companies would be more willing to engage in the cross-border movement of goods and services if they were confident they could resort to enforcement orders as close to their national counterparts as possible. This was particularly so in small claims such as cross-border purchases by mail, where the enforcement costs should be proportionate to the amount to be paid.

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<sup>1</sup> Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Working Paper EC 2001 No. L 12/1. Its predecessor was the Brussels Agreement of 27 September 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters (consolidated version in Official Journal EC 1998 Nr C 27/1).

<sup>2</sup> Regulation (EC) No 805/2004 of 21 April 2004 on the introduction of a European enforcement order for uncontested claims, Official Journal EC 2004 Nr. L 143/15.

<sup>3</sup> See Green Paper of 20 December 2002 on a European order for payment procedure and on measures to simplify and speed up small claims litigation, COM (2002) 746.

The pilot project was Regulation (EC) No 1896/2006 creating a European Order for payment procedure<sup>4</sup>, which will come into force on 12 December 2008 (Article 33 (2) of Regulation (EC) No 1896/2006). The largely automatic procedure therein will be applied in parallel with payment procedures already existing in many Member States, its main objective being a speedy and less costly enforcement of uncontested claims in cross-border actions. Together with the European payment summons, it was the first European enforcement order worthy of that name<sup>5</sup>.

The second step in this direction was Regulation (EC) No 861/2007 establishing a European Small Claims Procedure<sup>6</sup>. Article 1(1) thereof states: "This regulation establishes a European procedure for small claims intended to simplify and speed up litigation concerning small claims in cross-border cases and to reduce costs". The regulation will come into force, as mentioned above, on 1 January 2009 (Article 29 (2)).

### **C. Regulation (EC) 861/2007 and other regulations**

The co-existence of different orders in judiciary cooperation within civil law makes it increasingly difficult to assess how each act relates to each other and to national law. For Regulation (EC) 861/2007 the following principles apply:

- Article 1(1) of Regulation (EC) 861/2007 provides that existing speedy enforcement procedures for small claims should not be superseded but rather should continue to be in force. This is important from the Spanish point of view as applied to declaratory actions ("juicio verbal") under Section 250.2 and Section 437 et seq of the Law of Civil Procedure.
- For the purposes of enforcement, the choice is given -particularly in the case of actions up to €2,000- between the new payment procedure in Regulation (EC) 861/2007 and the new payment procedure in Regulation (EC) No 1896/2006. Both have a number of common features; however, they differ in that Regulation (EC) 861/2007 limits the claim to €2,000, and it also considers small claims actions to be 'adversarial proceedings' (that is, contested).

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<sup>4</sup> Regulation (EC) No 1896/2006 of 12 December 2006 on the introduction of a European payment procedure, Official Journal EC 2006 No. L 399/1.

<sup>5</sup> Although Regulation (EC) No 1896/2006 mentions a "European enforcement order", in this case it simply used the term to give a new name to enforcement orders issued in accordance with the procedural law of the Member States – i.e. a national order – in an action under EC law.

<sup>6</sup> Official Journal EC 2007 No. L 199/1.

- With regard to small claims, actions brought under Regulation (EC) 861/2007 do not necessarily exclude the need for legal protection. If an action is brought, cross-border jurisdiction will be determined according to Article 2 et seq of the Brussels I Regulation<sup>7</sup>, recognition and declaration of enforceability in other member states being provided for in Article 32 et seq of the Brussels I Regulation.
- Furthermore, a creditor is at liberty to procure an enforcement order in an ordinary contentious action brought under national law and to have this recognized as a European enforcement order according to Regulation (EC) 861/2007 and thereupon to have it enforced in a different Member State. However, if the creditor chooses the small claims procedure in Regulation (EC) 861/2007 or the new payment procedure in Regulation (EC) No 1896/2006, the enforcement rules will take precedence over those in Regulation (EC) 805/2004.

#### **D. Scope of Regulation (EC) 861/2007**

##### **I. Jurisdiction *ratione materiae***

A claim is considered to be small if its value - without interest, costs and expenditure - does not exceed € 2,000 at the time proceedings are initiated (Article 2(1) of Regulation (EC) 861/2007). This limit is based on a compromise by Member States, whose procedural law may differ considerably. The maximum amount chosen by legislators has been criticised by some as being too high with regard to the protection of the defendant, while others see it as too low with regard to the effective legal protection of the claimant.

If necessary, the claim value can be determined under Article 5(5) of Regulation (EC) 861/2007. The procedure chosen to determine the value remains with national law (Article 19 of Regulation (EC) 861/2007); this seems unfortunate, since it sets the scene for inconsistent application of the regulation in the Member States.

The small claims procedure can also be resorted to, unlike the European payment procedures (cf. Article 4 of Regulation (EC) No 1896/2006), to enforce claims other than payment claims. This is apparent from provisions such as Article 2(2g) and Article 5(5). Furthermore, there is no need to limit Regulation (EC) 861/2007 to performance claims wherein negative actions for declaratory judgements in particular may also fall.

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<sup>7</sup> See E below for the application of the jurisdiction rules under Regulation (EC) 861/2007.

According to Article 2(1) of Regulation (EC) 861/2007, it only applies to civil and commercial matters, whatever the nature of the court or tribunal. This must be interpreted in the light of Article 1(1) of the Brussels I Regulation and the appropriate case law. It is irrelevant whether the claim for an enforcement was brought by a company or by a consumer. Revenue, customs, administrative matters and liability of states are expressly excluded, as are the following matters listed in Article 2(2):

- status or legal capacity of natural persons;
- rights in property arising out of a matrimonial relationship, maintenance obligations, wills and succession;
- bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;
- social security;
- arbitration;
- employment law;
- tenancies of immovable property, with the exception of actions on monetary claims;
- violations of privacy and of rights relating to personality, including defamation.

This list of exceptions is larger than that in Article 2(2) of Regulation (EC) No 1896/2006. However, claims from non-contractual obligations are included in the scope of the Regulation, unlike what happens with Article 2(2d) of Regulation (EC) No 1896/2006).

## **II. Territorial and personal scope**

The Commission had planned to apply the Regulation on European small claims procedure strictly to national actions<sup>8</sup>. However, it was unable to do this<sup>9</sup>. Under Article 65 of EC Regulation (EC) 861/2007 it is limited to "cross-border matters" in the sense of Article 3(1) thereof. Cross-border actions will occur when at least one of the parties has their residence or domicile in another Member State.

Member States are, with the exception of Denmark (Article 2(3) of Regulation (EC)

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<sup>8</sup> See the proposal of 15.03.2005, COM (2005) 87, p. 7.

<sup>9</sup> The same happened to the Commission with Regulation (EC) No 1896/2006 (cf. Article 3 therein) and with Guideline 2008/52/EG of 21 May 2008 on certain aspects of mediation in civil and commercial matters (Official Journal EC 2008 No. L 136/3; cf. Article 2 therein).

861/2007), all EU states including the United Kingdom and Ireland (see Whereas Clause 31).

The term 'residence' should be understood in connection with Articles 59 and 60 of the Brussels I Regulation, which match Article 3(2) of Regulation (EC) 861/2007. In this sense, it is necessary to distinguish between natural and legal persons. However, Regulation (EC) 861/2007 does not provide specific information on how to determine the domicile. Thus it must be assumed that the same principles apply as in Article 3 of the Brussels II Regulation<sup>10</sup>. The nationality of the parties or the place where estate may be located is irrelevant for the purposes of Article 3(1) of Regulation (EC) 861/2007.

The wording of Article 3(1) of Regulation (EC) 861/2007 can be better understood by means of an example. Let's assume that the claimant is seised of a Spanish court. In this case a cross-border action would exist if:

- the claimant was resident in Spain and the defendant in Germany;
- the claimant was resident in Germany and the defendant in Spain;
- both parties were resident in Germany;
- the claimant was resident in Germany and the defendant in France;
- one party was resident in Germany and the other in a non-member country such as Switzerland.

It would not be considered a cross-border action in the sense of Article 3(1) of Regulation (EC) 861/2007 if the claim was brought in Spain and:

- both parties were resident in Spain;
- both parties were resident in the same third country or in a different third country;
- one party was resident in Spain and the other in a third country.

Even assuming that the limitation of the scope of cross-border matters was ultimately unavoidable considering to Article 65 of the EC Treaty, it is obvious that the solution found by legislators can lead to odd gaps in legal protection. For example, the case not covered by Regulation (EC) 861/2007, where both parties are resident in Spain and the

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<sup>10</sup> Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000. Official Journal EC 2003 No. L 338/1.

claimant wishes to initiate proceedings there, but the defendant only owns estate of significant value in Luxembourg. However, Article 3(1) of Regulation (EC) 861/2007 must take precedence since it is easier to apply and it matches the provisions in Regulation (EC) No 1896/2006, which ensures the safety of the process.

The decisive point in time to determine a cross-border action is the commencement of proceedings according to Article 3(3) of Regulation (EC) 861/2007. Therefore it is not relevant whether the facts at issue take on an international dimension at a later date, for example if the claimant or the defendant move abroad. Quite the contrary, since if the small claims action had already been brought, the claimant would be at disadvantage. Neither would it make much sense in cases where an initial international dimension disappears in the course of the action.

The question of what elements international jurisdiction can be based on must be dealt with separately from Article 3(1) of Regulation (EC) 861/2007.

### **E. Commencement of proceedings and jurisdiction**

Small claims procedure is commenced when the claimant fills in standard claim form A, available in all languages of the Member States (Annex 1 to Regulation (EC) 861/2007) and lodges it with the court or tribunal with jurisdiction directly or by post. Other means of communication (for example fax or e-mail) acceptable to the Member State in which the procedure is commenced may be employed according to Article 4(1) Regulation (EC) 861/2007. The claim form and further information are readily available in the European Court Atlas for Civil Cases<sup>11</sup>.

The claimant must describe the evidence supporting his claim and this may be accompanied by relevant supporting documents (Article 4(1) of Regulation (EC) 861/2007). Whereas Clause 12 emphasises that this not prevent the claimant from submitting further evidence during the procedure. Unfortunately, deadlines are not dealt with by the regulation.

Unlike Article 6(1) of Regulation (EC) No 1896/2006, Regulation (EC) 861/2007 does not address the issue of the court with jurisdiction. The question of international and local jurisdiction must be answered in accordance with Article 2 et seq Of the Brussels I Regulation, and with national law. The latter applies when the defendant is not domiciled in a Member State; in this case, under Article 4(1 & 2) of the Brussels I Regulation, the claimant may resort to the relevant European courts with jurisdiction

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<sup>11</sup> See [http://ec.europa.eu/justice\\_home/judicialatlascivil/html/index\\_de.htm](http://ec.europa.eu/justice_home/judicialatlascivil/html/index_de.htm).

listed in Annex 1 to the Brussels I Regulation, The following example illustrates this case: the claimant, who is domiciled in Spain, initiates a small claims procedure in Germany against the defendant, who is domiciled in Turkey, where he has a bank account. According to Article 3(1), this would fall within the scope of Regulation (EC) 861/2007. The international jurisdiction of German courts applies, according to Section 23 of German Law of Civil Procedure, since the defendant owns estate in Germany; Article 4(1 & 2) of Brussels I Regulation does not forbid recourse to the jurisdiction of German courts where the defendant is domiciled in a third state.

A provision similar to Article 6(2) of Regulation (EC) No 1896/2006 or Article 6(1d) of Regulation (EC) 861/2007, which protects consumers who are domiciled in third states, is not contemplated by Regulation (EC) 861/2007. However, the protection in small claims proceedings of consumers domiciled in a Member State is ensured by Article 16(2) of the Brussels I Regulation. Nonetheless, this applies only if the circumstances in Article 15 of the Brussels I Regulation are fulfilled, and this has brought about occasional criticism.

If the claimant is seised of a court with international jurisdiction, the court cannot cross-border refer the case to a court in another Member State which it deems with jurisdiction, since such a referral (allowed under Article 15 of the Brussels II Regulation) is not envisaged by Regulation (EC) 861/2007.

In order to avoid parallel actions and hence the risk of contradictory judgments, the claim arising from the small claims procedure blocks *lis pendens* in conformance with the general rules. For claims brought in other Member States under Article 27 of the Brussels I Regulation, the applicable rules will be those of Member States (see Article 19 of Regulation (EC) 861/2007). The decisive point in time to determine the procedure with precedence chronologically is defined in to Article 3 (3) of Regulation (EC) 861/2007.

## **F. Stages in contentious proceedings**

### **I. Preliminary assessment of the claim**

The seised court first examines whether the claim submitted comes under the scope of Regulation (EC) 861/2007. If the court is outside the scope of the court or tribunal, it will inform the claimant to that effect (Article 4(3) of Regulation (EC) 861/2007). The *lex fori* determines further procedure if the claimant does not withdraw the claim thereupon.



If the claim does come under the scope of Regulation (EC) 861/2007, the court further examines, according to Article 4(4) of Regulation (EC) 861/2007, whether the information provided by the claimant is adequate and clear and whether the claimant has filled in the claim form properly. If the claim form is not filled in properly or if the court considers the claim to be clearly unfounded, the court addresses the claimant and gives him the opportunity, within a certain period, to complete or rectify the form, to provide supplementary information or documents or to withdraw the claim. The court shall use standard Form B as set out in Annex II. The concepts of 'clearly unfounded' or 'inadmissible' should be determined in accordance with national law as stated in Whereas Clause 13. If the claim then proves to be clearly unfounded or inadmissible or if the claimant fails to complete or rectify the claim form within the time specified, the application shall be dismissed as inadmissible or unfounded (Whereas Clause 13).

## **II. Involvement of the defendant in the small claims procedure**

If the claim is not dismissed on the basis of Article 4(3) or Art. 4(4) of Regulation (EC) 861/2007, the court shall involve the defendant in the proceedings within 14 days (Article 5(2) of Regulation (EC) 861/2007). Small claims procedure is therefore adversarial, the defendant being given the opportunity to participate in the proceedings before the issue of enforcement orders. European small claims procedure is a written procedure (Article 5(1)) so the defendant at first can only respond in writing initially. To do so he will fill in standard Form C, served on him by the court (Article 5(3)). If the defendant does not submit his response within 30 days of service of the claim, the court shall pass judgement on the case pursuant to Article 7(3) of Regulation (EC) 861/2007. Further details are regulated by national law.

From Article 5(6 & 7) of Regulation (EC) 861/2007 and Whereas Clause 16 it ensues that the defendant can take the offensive and initiate a counterclaim. In addition, set-off as a defence can be considered, as derived from Whereas Clause 17.

Article 5(2 & 3) proves that a speedy procedure is a concern of Regulation (EC) 861/2007. This is why narrow time limits are given for the most important stages in the proceedings, both for the parties and for the court. Article 14(2 & 3) of Regulation (EC) 861/2007 is also strict in this sense. Whereas Clause 23 emphasises that the court should act as soon as possible when the Regulation does not prescribe any time limit for a specific phase of the procedure. Where the court or tribunal sets a time limit, the party concerned shall be informed of the consequences of not complying with it (Article 14(1)). Whereas Clause 24 states that for the purposes of calculating time limits

Regulation (EC) No 1182/71 of 3 June 1971 determining the rules applicable to periods, dates and time limits should apply<sup>12</sup>.

Two further important points that speed up the procedure should be mentioned:

- Article 12(3), which provides that, whenever appropriate, the court or tribunal shall seek to reach a settlement between the parties.
- Article 13, which gives preference to speedy fast service, preferably by postal service attested by an acknowledgement of receipt (see Whereas Clause 18).

### **III. Subsequent phases in small claims proceedings**

If the defendant responds in time, but the court does not consider the case ready for a judgment, Article 7(1) states it should work towards creating the necessary basis for a speedy judgment. To this end the Regulation states the following:

- The court or tribunal may demand further details from the parties (Article 7(1a)). However, the court or tribunal shall not require the parties to make any legal assessment of the claim (Article 12(1)).
- The court or tribunal may take evidence if it is considered necessary. The details are regulated in Articles 7(1b) and 9; additionally Whereas Clause 20 emphasises that the court should use the simplest and less costly method of taking evidence. The court or tribunal may admit the taking of evidence through written statement of witnesses, video conference or other communication technology available (Article 9(1)) which means that a party's right to be present is not taken into account. The court may take expert evidence only if it necessary for giving the judgment, thus taking costs into account (Article 9(2)).
- Oral proceedings are also possible in a small claims case pursuant to Articles 7(1c) and Article 8. However, Article 5(1) indicates that the legislator puts a limit to a party's right to oral proceedings since the court can refuse a request of oral proceedings, and the refusal may not be contested separately. Whether this is consistent with Article 6(1) is debatable. However, the court would have to consider the right to a fair trial and the principle of an adversarial process in taking this decision (Whereas Clause 9).

Representation by a lawyer or any other legal profession is not mandatory in small claims procedure (Article 10). However, it is allowed and in many cases it may be

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<sup>12</sup> Official Journal 1971 No. L 124/1.

advisable at least for a party who is not domiciled in the state with jurisdiction. The legislators, however, have tried to ensure sufficient assistance for the parties not represented by a lawyer: in accordance with Article 11, the member states shall ensure that the parties can receive practical assistance in filling in the form and, according to Article 12(2), the court shall inform the parties about procedural questions.

The question of language, particularly important in cross-border actions, is regulated by Article 6. According to Paragraph 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 of the court. For other documents and – where appropriate – for oral hearings Article 6(2) shall apply. This article emphasizes not so much the language but the efficiency of the procedure. Article 6(3) allows for a translation to be submitted at a later date if a party refuses to accept a document in a foreign language.

### **G. Judgment and appeal**

The judgment of the court must be given within 30 days (Article 7). The judgment is served on the parties; this raises doubts whether this is consistent with Article 6(1).

There is no form to be followed in the judgement. The certificate in standard Form D (Article 20(2)) is for enforcement purposes only (see Article 21(2b)).

Article 17 leaves it to the member states whether an appeal is available under their procedural law against a judgment given in the European Small Claims Procedure. Article 18 guarantees the defendant the right in certain cases to have the judgement reviewed if he wishes to plead that his defence rights were not sufficiently protected. This has neither returns nor suspends the procedure.

The costs of the proceedings (and those of the opponent party) must be borne by the unsuccessful party pursuant to Articles 16 and 17(2).

### **H. Enforcement**

According to Article 15(1) the judgement is enforceable notwithstanding any possible appeal without the need for this to be declared expressly and without the creditor<sup>13</sup> having to provide a security. Only in the conditions set forth in Articles 15(2) and 23 will the enforcement proceedings be limited to protective measures, be made conditional or

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<sup>13</sup> A creditor can also be the successful defendant in relation to the costs they had incurred; see Whereas Clause 33.

be stayed.

If the creditor cannot secure payment in the state where the judgment has been issued, the judgment will be enforced in another member state. A clear purpose of the Regulation is to give a solution to this situation, as evidenced by Article 1(2): "This regulation also eliminates the intermediate proceedings necessary to enable recognition and enforcement, in other Member States, of judgments given in one Member State in the European Small Claims Procedure". This means that the judgement will be recognised in other Member States pursuant to Article 20 and it will be enforced applying the law of the Member State in question (see Article 21(1)), using Form D. Article 21(2) lists the documents that the party seeking enforcement must produce:

- a copy of the judgement which satisfies the conditions necessary to establish its authenticity;
- a copy of the certificate referred to in Article 20(2);
- where necessary, the translation of the certificate into the official language of the Member State of enforcement.

According to Article 21(3), the party seeking enforcement in another Member State shall not be required to have an authorised representative or a postal address in the country of enforcement. Additionally, Article 21(4) provides that no security, bond or deposit shall be required of a party who -in one Member State- applies for enforcement in another Member State on the ground that he is a foreign national or that he is not domiciled or resident in the Member State of enforcement.

The enforcement may only be refused, suspended or limited in the country of enforcement under the provisions of Articles 22 and 23. The reason stated in Article 22(1) to refuse recognition on the grounds of irreconcilability is likely to be of little practical relevance. A review of the judgment in the Member State of enforcement as to its substance is expressly prohibited by Article 22(2), which is consistent with Article 36 of Brussels I. However, in contrast to Articles 34(1) and 35(1) of Brussels I, public policy and an examination of the jurisdiction of the court of the state where the judgment was issued are not contemplated in Regulation (EC) 861/2007, at least for consumer cases. This has been criticised.

### **I. Open questions**

As we have already seen, Regulation (EC) 861/2007 systematically leaves the details of the procedure to the relevant procedural law of the Member State in which the procedure is conducted (see Articles 4(1-3), Article 9(1), Article 17(1) and Article 21(1 & 2b)). Article 19 is a warning presented as a general clause. And this is where the problems start.

It is necessary to identify the issues regulated conclusively by Regulation (EC) 861/2007, but the problem is that there is room for interpretation:

- Article 10 should be understood to mean that national law cannot require representation by a lawyer in the Small Claims procedure.
- Conversely, the full inclusion of counterclaims in Whereas Clauses 16 and 17 and their fragmentary inclusion in Article 5(6 & 7) makes us think that in the remaining legislation the role of Member States must be provided for.
- However, it is less clear to what extent Member States can rule on delays in Small Claims procedure (see Articles 7(3) and 18). Regulation (EC) 861/2007 leaves open the question of how this should be dealt with if deadlines -other than those stated in Article 7(3), Article 21(3)- are not met or if a summoned party does not appear at the hearing.

Bearing in mind Article 19, it is necessary to clarify to what extent rules that are against a total acceptance of national law can be deduced from the sense and the purpose of the Regulation. In this sense, it is important to remember issues such as the objective and subjective joinder of actions, third party involvement or the conclusions derived from procedural law. For example, it has been (questionably) argued that if Regulation (EC) 861/2007 is intended to resolve claims conclusively, small claims proceedings are not lawful if only a partial sum up to €2,000 is requested in a claim for a larger amount.

### **J. Perspective**

The European payment procedure (Regulation (EC) No 1896/2006) is likely to have greater practical importance in the future than the new small claims procedure. One aspect in its favour is that the payment procedure is not limited by a maximum and thus creditors will more readily get involved in international actions if large sums are at stake. For this reason, "traditional" actions under national law, based on the courts provided for in Brussels I will remain an important – and probably the most important –

element in cross-border payment.

It remains to be seen whether practice shows that a more rationalized Small Claims procedure is useful as an alternative. After all, the chances of success for Regulation (EC) 861/2007 depend considerably on whether the European Court of Justice develops real solutions to unclear issues. Regulation (EC) 861/2007 could, however, be of interest because it deals with amounts which are frequently found in consumer actions and also given the fact that the small claims procedure, as we have seen, has not been designed to be particularly consumer-friendly in certain aspects. Therefore it is positive that Article 28 provides for a review of the operation of the Small Claims procedure after a five-year period.

However, from the academic point of view Regulation (EC) 861/2007 is interesting indeed. It is the first adversarial procedure in Community law and therefore may be – despite some statements from Brussels – the model pattern for a future European code of civil procedure. Besides, the small claims procedure may also serve a model for the different national law systems. Some will find this perspective attractive, others less so – but in either case it should not be ignored.