



Brussels, 19.6.2017
C(2017) 3982 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 19.6.2017

replacing Annexes I, II, III and IV to Regulation (EC) 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The European Small Claims Procedure is a simplified and accelerated European civil procedure in which parties and courts have to use prescribed forms, adopted as Annexes to the Regulation.

Regulation (EU) 2015/2421 of the European Parliament and of the Council 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 introduced a number of amendments to the European Small Claims Procedure that needs to be reflected in the forms.

Article 26 confers the powers to amend delegated acts concerning the Annexes establishing the forms on the Commission, therefore in order to ensure implementation of the amendments introduced by Regulation (EU) 2015/2421, adoption of this Commission Delegated Regulation is necessary.

The Commission decided to base the Annexes on those that are being used till the entry into application of the amendments introduced by Regulation (EU) No 2015/2421 adding or changing elements required to give the effect to adopted amendments. Apart from this, one change aimed at improvement of usefulness of the forms is proposed, namely optional entry for a personal identification number.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The content of the forms is determined by the provisions of Regulation (EC) No 861/2007 (as amended by Regulation (EU) No 2015/2421). Nevertheless, the Commission consulted civil procedure experts from all Member States to take advantage of their practical experience in the use of the forms. The meeting was held on 18 November 2016, followed by a cycle of discussions through e-mails in first quarter of 2017.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The delegated regulation amends the forms necessary for initiating and conducting the procedure, as well as for enforcing a judgment given in this procedure throughout the European Union. The European Small Claims Procedure applies already for 8 years. During this period no major issues related to operation of the forms were disclosed, therefore all amendments but one only reflect changes introduced by Regulation (EU) No 2015/2421.

New elements of the forms allow parties to express acceptance or refuse electronic service of documents (amended Article 13 of Regulation (EC) No 861/2007), to demand an oral hearing with own presence (amended Article 8 of Regulation (EC) No 861/2007) and to request an issue of a certificate of a judgment or a court settlement in other languages than the one of the court (new Article 21a of Regulation (EC) No 861/2007). Instructions to the parties were updated and extended, to reflect these new features of the European Small Claims Procedure, but also to inform about increase of the threshold of the procedure to claims up to EUR 5.000, about modalities of obtaining assistance in filling the forms in the Member States and about modalities of payment of court fees. The certificate in Annex IV contains specific entries concerning court settlements (new Article 23a of Regulation (EC) No 861/2007).

In addition, an optional entry for a personal number has been added. Possibility of introducing such information already exists, but now it is specifically mentioned, as in many jurisdictions it facilitates conduct of proceedings and enforcement of a judgment. Nevertheless this element remains optional.

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure¹, and in particular Article 26 thereof,

Whereas:

- (1) Regulation (EC) No 861/2007 establishes in its Annexes the forms to be used to facilitate its application.
- (2) Regulation (EC) No 861/2007 was amended by Regulation (EU) 2015/2421 of the European Parliament and of the Council². The introduced changes to the European Small Claims Procedure should be reflected in the forms in the annexes. For the sake of clarity, it is appropriate to replace the whole Annexes.
- (3) As the amendments to Regulation (EC) No 861/2007 will start to apply on 14 July 2017, this Regulation should enter into force on 14 July 2017.
- (4) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom and Ireland have notified their wish to take part in the adoption and application of Regulation (EC) No 861/2007 and of Regulation (EU) 2015/2421, and are therefore bound by this Regulation.
- (5) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (6) Therefore, it is necessary to replace Annexes I to IV to Regulation (EC) No 861/2007,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes I, II, III and IV to Regulation (EC) No 861/2007 are replaced by the text in the Annex to this Regulation.

¹ OJ L 199, 31.7.2007, p.1.

² 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 (OJ L 341, 24.12.2015, p. 1).

Article 2

This Regulation shall enter into force on 14 July 2017.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 19.6.2017

For the Commission
The President
Jean-Claude JUNCKER