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Committee on Economic and Monetary Affairs

PROVISIONAL 2007/2026(INI)

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DRAFT OPINION

of the Committee on Economic and Monetary Affairs

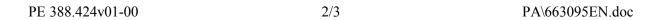
for the Committee on Legal Affairs

on Green paper on improving the efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts (2007/2026(INI))

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SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- 1. A self standing European procedure for attachment of bank accounts, subject to strong procedural safeguards, is preferable to harmonisation of Member States' legislation;
- 2. Attachment orders should be available from the time of filing of monetary claim proceedings; justified urgency may allow earlier orders providing proceedings follow; orders should freeze accounts, not transfer funds until there is a subsequent court order from the Member State where the account is held:
- 3. Justification for an order is necessary, such as risk of dissipation of assets;
- 4. Instantaneous transaction possibilities contraindicates hearing the debtor prior to grant of a bank attachment; rights to object after the order has been made must exist with reimbursement of costs if a debtor's appeal is successful, therefore cross undertakings should apply; creditors must pursue proceedings with due diligence;
- 5. Sufficient information to identify an account must be given, even if banks have to conduct searches on name and address which must be done diligently;
- 6. Attachment orders should be transmitted by means that guarantee service upon the bank by the first day after transmission and processed within 24 hours of identification of the account; formal notification must go from the bank to the enforcement authority and creditor as to whether the amount liable has been secured; the bank must also formally notify the debtor when the attachment order becomes effective;
- 7. Bank costs must be covered on the basis of a true reflection of the actual costs incurred for the service, including searches;
- 8. The court should set a level of living expenses that are exempt from freezing, which can be appealed; the Member State of residence should be the guideline for the amount.