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Prepared by:	V. Baiboutis	Date:	26/02/09
Verified by:	V. Legrand, S. Tonneau, M. Colaes	Date:	02/03/09
Approved by:	A. Baudhuin	Date:	03/03/09

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## 1. EXECUTIVE SUMMARY

The regulation N°1896/2006 of the European Parliament and of the Council of 12 December 2006 introduces a new business process (a European Order for Payment procedure) in the civil and commercial jurisdictional landscape of the EU. The purpose of the feasibility study is to evaluate the possibilities for supporting the execution of the EOfP business process with electronic means.

The project has started with an intensive information collection phase in order to investigate the stakeholder needs and requirements. Another goal was to assess the current situation in the Member States in what regards the business/workflow aspects of the national Order for payment procedure. Also, investigate the existence of IT infrastructure that might support it, and the technical issues that would be of interest.

Not surprisingly, the consultation of stakeholders has revealed their favourable opinion (and requirements) towards an automated procedure. The examination of Member State practices has revealed two important elements: from a technical (automation) point of view, the business logic of the National Order for Payment procedures is quite similar to the one of the European Order for payment. This means that, technically speaking, a national IT system (used for Order for Payment procedures) with few adaptations could accommodate the European Order for Payment functionality. Another finding is that, several Member States have already automated their national procedure, with some of them utilising advanced eGovernment practices. These findings immediately suggest that the question is currently not if the Community is going to be involved in the automation of the procedure, but rather to what extent this will have to be done.

The study has considered basic Community principles and some relevant best practises, including lessons learned from similar Commission implementations at the pan-European level. These have helped in better defining the scope of the technical intervention envisaged.

The findings in the Member States have shown that, at least, a minimal intervention is needed in the form of a pan-European interoperability layer, implemented by means of an Enterprise Service Bus. The long-term vision is therefore to have Member State systems (automating national Orders for Payment), being properly adapted to cover European functionality (according to specifications provided) and interconnected through the interoperability layer. To the extent that the Community is willing to speed-up the process, it can choose between two other alternatives. These describe systems that can be readily used in the context of the European Order for Payment and which contain modules that could be re-used in national systems under development. Some of these modules can come from the existing pilot project of Austria and Germany.

All alternatives are valid and cost efficient and the choice between them depends on the will of the stakeholders. The most complicated of them will require around a year for full deployment. The cost of this option for 5 years is estimated at 1.2 million EUR. Substantial gains and other benefits could be realised, if synergy with the Pilot Project of Austria/Germany is established.

## 2. INTRODUCTION

The EOfP procedure simplifies, speeds up and reduces the costs of cross border litigations for uncontested pecuniary claims in civil and commercial matters in the EU.

The procedure was approved by all the MS of the EU (except Denmark) and enters into force in December 2008.

There is not an electronic infrastructure yet in support of the execution of the EOfP procedure. But considering that the European procedure does not require presence before the court and considering that the regulation itself foresees the handling of the procedure in a pure electronic way, there is an opportunity for the EC to set up a new electronic infrastructure in support of the European regulation with the following characteristics:

- Use of modern technologies and standards as well as modern transmission means
- Respect of the efforts that have already been made in the different MS for supporting their national procedure and in some cases for preparing their systems for the European procedure
- Implementation of the procedure in a uniform way across the EU. Remark: the EOfP procedure is the first uniform civil judicial procedure in Europe
- Facilitate the interoperability between the jurisdictions, the citizens and the economic operators all over Europe
- Reduction of the MS administrations workload in executing the EOfP procedure
- Reduction of the time to payment for the citizens and economic operators (reduction of the delays for the delivery of an enforceable OfP thanks to the electronic transmissions)
- Utmost reduction of the costs for the jurisdiction, the citizens and the economic operators of the EU in executing a EOfP procedure
- Facilitate the swift circulation of the EOfP across the EU
- Reduction of the administrative burdens for the jurisdiction, the citizens and economic operators of the EU resulting from the execution of a EOfP procedure in paper format
- Facilitate the access to justice for the citizens and economic operators
- Limitation of the burdens linked to the translation of the exchanged information in the different languages of the EU
- Facilitate the reporting and the collection of statistics

### 2.1 Definitions, Acronyms, and Abbreviations

This table defines the business terms and entities that are used throughout this document. It also contains definitions of terms relevant for the proper comprehension of this document.

Data object Name	Description (EN)
Acknowledgement of Receipt	The Defendant notification that he has received the European Order for Payment issued by the Court of Origin. That notification is normally transmitted to the Court of Origin by the Post Office in charge of the service to the Defendant.
Appeal	A resort to a Court to request for a new hearing of a case or to contest a decision.
Application	The statement (in paper or electronic format) submitted by a Claimant soliciting for the delivery of a European Order for Payment. The use of a standardised form is compulsory.
Banking Organisation	The financial institution responsible for the execution and the confirmation of the payment of the court fees by the Claimant
Case	A request for the delivery of a European Order for Payment at various stages of its life cycle.
CEAF	The Commission Enterprise Architecture Framework. It shows from each stakeholder's perspective (business or IT) the blueprint of all aspects involved in constructing information systems and how they relate.
Civil Proceedings (ordinary)	The rules used to handle a civil case from the time the initial complaint is filed through pre-trial discovery, the trial itself and any subsequent appeal. Each Member State adopts its own rules of civil procedure. The European Order for Payment regulation may handover a case to the concerned Member State Ordinary Civil Proceedings when the status of the case requires it (e.g. in case of opposition by the Defendant).
Claimant	See Creditor
Court	Within the context of this project, any authority in a Member State with competence regarding European orders for payment or any other related matters
Court Fees	The amount of money the Claimant owes to the Court of Origin
Court/Jurisdiction of Origin	The court which issues a European order for payment
Court/Jurisdiction of Enforcement	The Court responsible for the actual enforcement of the executive European Order for Payment
Creditor	The person who wants to recover his money from a debtor by submitting a request to a competent jurisdiction in the EU for the delivery of a European Order for Payment
Cross-border Litigation	A litigation whose stakeholders are domiciled in different Member States
Debt	Amount of money owed by the Debtor to the Creditor

Data object Name	Description (EN)
Debtor	The person who owes a creditor a certain amount of money
Debtor Representative	See Representative.
Defendant	See Debtor
Economic Operator	A contractor, a supplier or service provider who aims at proposing his services, goods or works in response to the request of the Contracting Authority
Enforceable EOfP	The executive title delivered by the Court of Origin when no statement of opposition was lodged by the Defendant. The Enforceable EOfP is transmitted for execution to the Member State of Enforcement
Enforcement	Execution by a Member State's jurisdiction of the legal force of a European Order for Payment for recovering a debt
Enforcement Refusal Request	A statement lodged by the Defendant to the Member State of Enforcement to request for the cancellation of an Enforcement procedure
EOfP	European Order for Payment. The legal title delivered by a European Jurisdiction towards a Debtor following the request of a Creditor, within the context of cross-border litigation, aiming at supporting the Creditor in his attempt to recover the uncontested amount of money the Creditor owes to him.
EU	European Union
Evidence	A document proving the well-founded of an Application for the delivery of a European Order for Payment
Examination	The business process during which the seized Jurisdiction shall evaluate the well-founded of a European Order for Payment request. During the Examination process, the groundings of the Claim are verified as well as the formalism of the information supplied by the Claimant
Form (standard)	Template document provided in support of the European Order for Payment procedure to facilitate the exchange of information between the Claimant, the Jurisdictions and the Defendant
Issuing/issue	Activity during which the seized Jurisdiction will effectively produce a European Order for Payment for serving purpose on the Defendant
Jurisdiction	See Court
Modification Proposal	Written statement issued by the seized Jurisdiction towards the Creditor to change the amount of money the Debtor owed the Creditor. The issuing of a Modification Proposal is one of the possible outcome of the Examination of a Claim by the seized Jurisdiction

Data object Name	Description (EN)
MS	Member State of the European Union (except Denmark)
MS of Enforcement	The Member State in which enforcement of a European order for payment is sought
NOfP	National Order for Payment
OFP	Order for Payment. A legal title delivered by a Member State's jurisdiction for the purpose of recovering a civil or commercial debt
Opposition Statement	Written statement issued by the Defendant towards the Court of Origin to contest a European Order for Payment.
Order	A written or verbal command from a court directing or forbidding an action
Payment Confirmation	A notification of a Banking Organisation towards a Jurisdiction to specify that the payment of the Court Fees by the Claimant has been properly executed
Reject Notification	Written statement issued by the seized Jurisdiction towards the Creditor to inform him of the rejection of his EOFP request. The issuing of a Reject notification is one of the possible outcome of the Examination of a Claim by the seized Jurisdiction
Representative	Person authorized to act as an official delegate for another person
Request for Review	Written statement issued by the Defendant towards the Court of Origin to cancel a European Order for Payment
Service	Actual delivery of the EOFP to the Defendant or of the Enforceable EOFP to the MS of Enforcement
Transfer Payment	Payment of money by the Claimant to the Jurisdiction to pay the applicable court fees
Uncontested Claim	A Claim to which the debtor has agreed by means of admission or court settlement or to which the Debtor has never objected or appeared or to which the Debtor has expressly agreed in an authentic instrument

## 2.2 References

ID	Document name	Origin and location
[REF1]	The Commission Enterprise IT Architecture Framework (CEAF)	The document is available at DG DIGIT @ European Commission
[REF2]	The European Order for Payment Regulation N°1896/2006 (l_39920061230en00010032.pdf)	Available at the following link: <a href="http://europa.eu/scadplus/leg/en/lvb/l16023.htm">http://europa.eu/scadplus/leg/en/lvb/l16023.htm</a>
[REF3]	Regulation (EEC, Erratum) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits	Available at the following link: <a href="http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&amp;numdoc=31971R1182&amp;lg=en">http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&amp;numdoc=31971R1182&amp;lg=en</a>
[REF4]	Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters	Available at the following link: <a href="http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Regulation&amp;an_doc=2001&amp;nu_doc=44">http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&amp;lg=en&amp;type_doc=Regulation&amp;an_doc=2001&amp;nu_doc=44</a>
[REF5]	Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission	Available at the following link: <a href="http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&amp;lg=EN&amp;numdoc=31999D0468">http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&amp;lg=EN&amp;numdoc=31999D0468</a>
[REF6]	Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures	Available at the following link: <a href="http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&amp;lg=EN&amp;numdoc=31999L0093&amp;model=guic_hett">http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&amp;lg=EN&amp;numdoc=31999L0093&amp;model=guic_hett</a>
[REF7]	Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil and commercial matters	Available at the following link: <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007R1393:EN:NOT">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32007R1393:EN:NOT</a>
[REF8]	Council Decision 2001/470/EC	Available at the following link: <a href="http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&amp;lg=EN&amp;numdoc=32001D0470">http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&amp;lg=EN&amp;numdoc=32001D0470</a>
[REF10]	AR 284_JLS Order for Payment_Use Case Model v1.1.doc	Study Deliverable
[REF11]	AR 284_JLS Order for Payment_Business Architecture v1.1.doc	Study Deliverable
[REF12]	AR 284_JLS Order for Payment_Risk_List v1.1.doc	Study Deliverable

ID	Document name	Origin and location
[REF13]	AR 284_JLS Order for Payment_Business Case_v1.1.doc	Study Deliverable
[REF14]	AR 284_JLS Order for Payment Technical Overview_v1.1.doc	Study Deliverable
[REF15]	AR 284_JLS Order for Payment Vision_v1.1.doc	Study Deliverable
[REF16]	Legal and Market Aspects of Electronic Signatures	<a href="http://ec.europa.eu/information_society/eeurope/2005/all_about/security/electronic_sig_report.pdf">http://ec.europa.eu/information_society/eeurope/2005/all_about/security/electronic_sig_report.pdf</a>
[REF17]	eID Interoperability for PEGS	<a href="http://ec.europa.eu/idabc/en/document/6484/5644">http://ec.europa.eu/idabc/en/document/6484/5644</a>
[REF18]	Preliminary study on mutual recognition of eSignatures for eGovernment applications	<a href="http://ec.europa.eu/idabc/en/document/6485">http://ec.europa.eu/idabc/en/document/6485</a>
[REF19]	AR 284_JLS Order for Payment_MS Practices_v1.1.doc	Study Deliverable

## 3. BUSINESS PROCESSES

### 3.1 Business opportunity

The European Order for Payment (EOfP) procedure simplifies, speeds up and reduces the costs of cross border litigations for uncontested pecuniary claims in civil and commercial matters in the EU.

The procedure was approved by all the MS of the EU (except Denmark) and enters into force in December 2008.

There is not an electronic infrastructure yet in support of the execution of the EOfP procedure. But considering that the European procedure does not require presence before the court and considering that the regulation itself foresees the handling of the procedure in a pure electronic way, there is an opportunity for the EC to set up a new electronic infrastructure in support of the European regulation with the following characteristics:

- Use of modern technologies and standards as well as modern transmission means
- Respect of the efforts that have already been made in the different MS for supporting their national procedure and in some cases for preparing their systems for the European procedure
- Implementation of the procedure in a uniform way across the EU. Remark: the EOfP procedure is the first uniform civil judicial procedure in Europe
- Facilitation of the interoperability between the jurisdictions, the citizens and the economic operators all over Europe
- Reduction of the MS administrations workload in executing the EOfP procedure
- Reduction of the time to payment for the citizens and economic operators (reduction of the delays for the delivery of an enforceable OFP thanks to the electronic transmissions)
- Utmost reduction of the costs for the jurisdiction, the citizens and the economic operators of the EU in executing a EOfP procedure
- Facilitate the swift circulation of the EOfP across the EU
- Reduction of the administrative burdens for the jurisdiction, the citizens and economic operators of the EU resulting from the execution of a EOfP procedure in paper format
- Facilitate the access to justice for the citizens and economic operators
- Limitation of the burdens linked to the translation of the exchanged information in the different languages of the EU
- Facilitate the reporting and the collection of statistics

## 3.2 Overall description

The business process concerned by this project is a new business process in the judicial landscape of the EU. As explained earlier in this document, that business process is subtended by a new regulation (N°1896/2006) of the European Parliament and of the Council creating a European Order for Payment (EOfP) procedure. There is currently no IT system in support of that business process which execution is exclusively paper-based.

The purpose of this section is to describe the aforementioned business process in order to facilitate the decision on the part of that process which shall be proposed for automation. Please note that this drawing describes the whole business process (i.e. all the business functions/activities depicted in the EOfP regulation) and not only the part that is subject to automation.

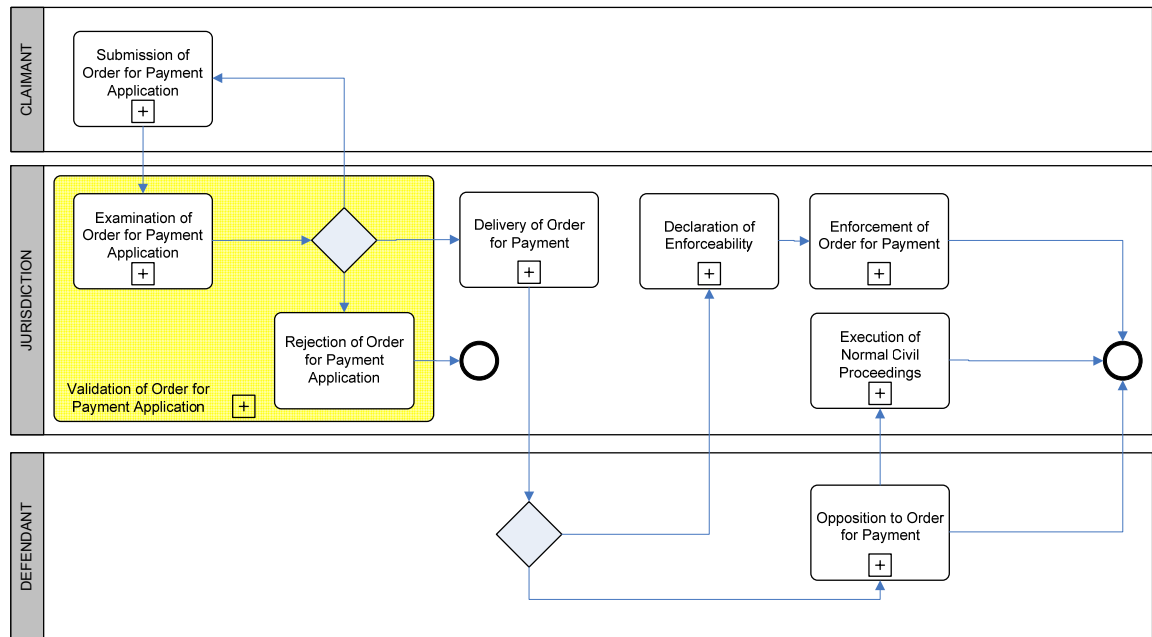
The EOfP procedure is based on the exchange of standard forms that are attached in the annex of the regulation. The table below lists those different forms, their purpose and the actors that manipulate them:

Form type	Purpose	Concerned actors
Form A	Applying for a European Order for Payment. The form is issued by the Claimant	Claimant
Form B	Requesting for the Completion and Rectification of a European Order for Payment. The form is issued by the Court of Origin	Jurisdiction of Origin
Form C	Requesting for the Modification of a European Order for Payment. The form is issued by the Court of Origin and modified by the Claimant	Jurisdiction of Origin Claimant
Form D	Notifying the Rejection of a European Order for Payment. The form is issued by the Court of Origin	Jurisdiction of Origin
Form E	It is the actual European Order for Payment title issued by the Court of Origin	Jurisdiction of Origin
Form F	Opposing to a European Order for Payment. The form is issued by the Defendant	Defendant
Form G	Declaring the Enforceability of a European Order for Payment. The form is issued by the Court of Origin	Jurisdiction of Origin

The EOfP business process can be decomposed in a set of sub-processes as depicted in the next drawing. Those sub-processes are made of business functions that will be further described in the next sections of this document.

It should be noted that each sub-process can concern more than one actor but that, for sake of clarity, it has been represented in the pool of the actor who plays the major role in its execution.

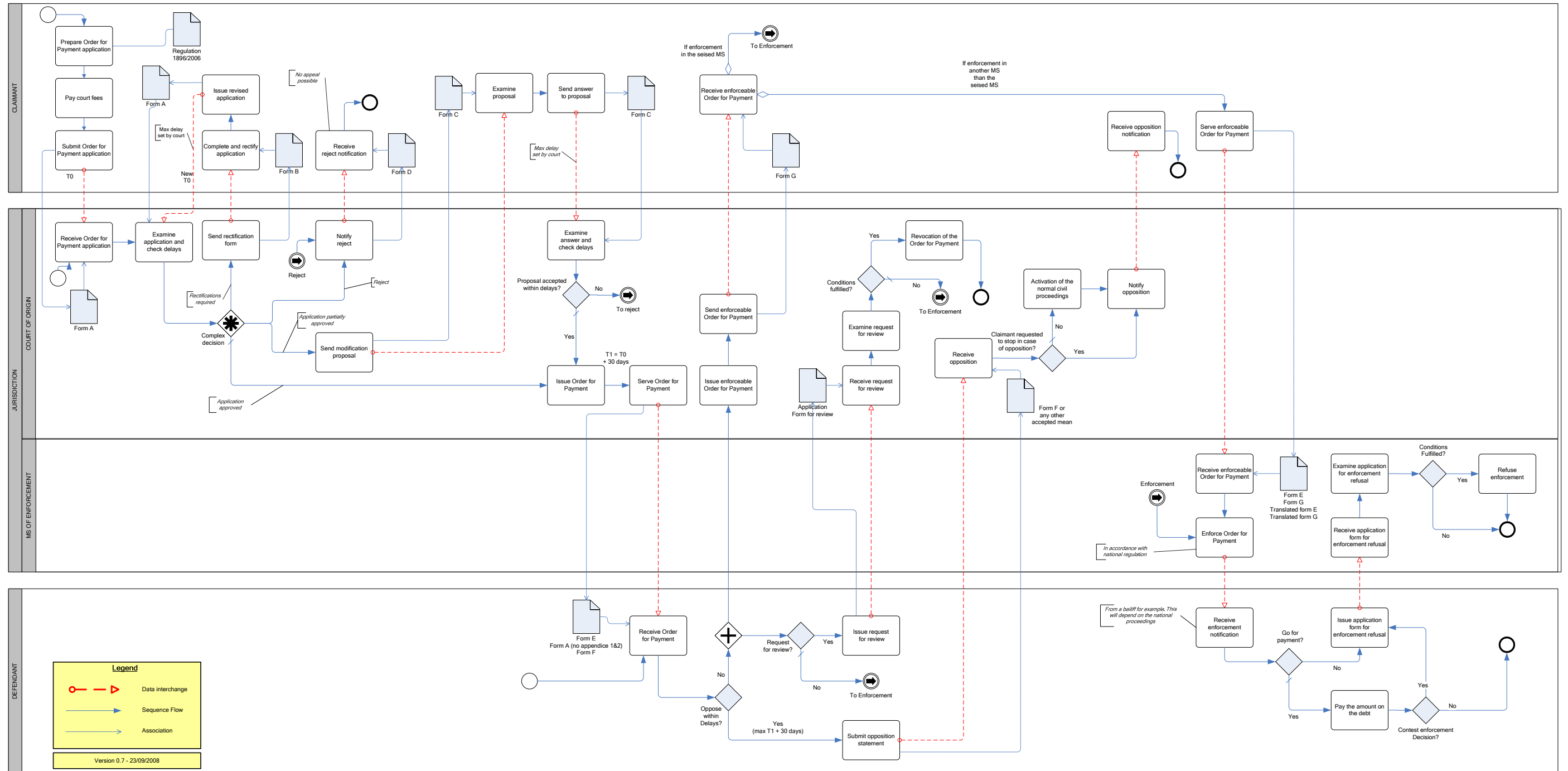
**Remark:** the “Rejection of Order for Payment Application” and “Examination of Order for Payment Application” sub-processes can be grouped into one single sub-process, namely “Validation of Order for Payment Application”. They have been kept split for the sake of clarity.



### 3.2.1.1 Graphical representation

The next drawing is a detailed graphical representation of the European Order for Payment procedure. It depicts the flow of activities carried out by the concerned actors within the context of an EOFP procedure.

For sake of clarity and because they are secondary actors in the process, the Postal Service and the Banking Organisation actors have not been represented here. Please refer to the document [REF10] for a detailed description of the various actors and business activities concerned by the project.



## 3.3 Basic Use Cases

Only the use cases invoked by the principal actors of the system have been represented in this section (i.e. Claimant, Defendant, Court of Origin, MS of Enforcement). For additional details on the use case model for the project (e.g. use cases for the Banking Organisation & the Post Office), please refer to the document [\[REF9\]](#)

### 3.3.1 Overview of the Actors of the system

#### The Claimant

The Claimant is the creditor. He can be any citizen or economic operator of the European Union (EU). Within the context of a commercial or a civil litigation with another citizen or economic operator of the EU, the Claimant is the actor who initiates the procedure by submitting a request for the delivery of a European Order for Payment, to a competent Jurisdiction in the EU (the so called seized Jurisdiction).

#### The Defendant

The Defendant is the debtor. He can be any citizen or economic operator of the European Union. The debtor owes money to the Claimant and he is the addressee of the European Order for Payment delivered by the seized Jurisdiction

#### The Court of Origin

The seized Jurisdiction is responsible for handling the European Order for Payment request that is submitted by the Claimant. The seized Jurisdiction examines the request and decides on the validity of that request. If the requirements of the regulation are met, the seized Jurisdiction delivers a European Order for Payment towards the Defendant. Besides that, the seized Jurisdiction handles the possible opposition statement submitted by the Defendant and is also in charge of declaring the enforceability of a European Order for Payment in case no opposition statement is lodged by the Defendant following the service of the order.

#### The Ms of Enforcement

The Jurisdiction of enforcement is responsible for the actual execution the enforceable European Order for Payment in accordance with the national proceedings. The Jurisdiction of enforcement can be the same as the seized Jurisdiction.

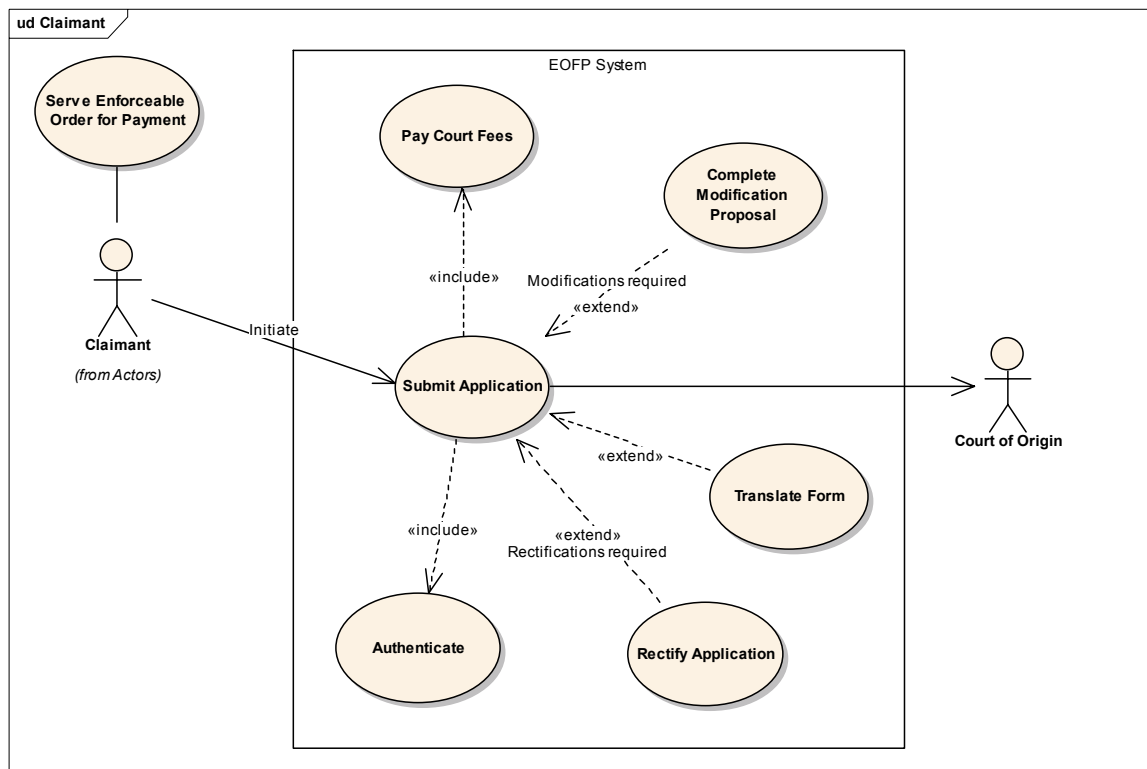
#### The Banking Organisation

The banking organisation is responsible for the validation of the payment of the court fees by the Claimant. That payment must take place before the actual processing of the case by the competent Jurisdiction.

#### The Post Office

The post office supports the paper-based interchanges of information (standard forms) between the Claimant, the Jurisdiction and the Defendant.

### 3.3.2 Use Case Package for the 'Claimant' actor

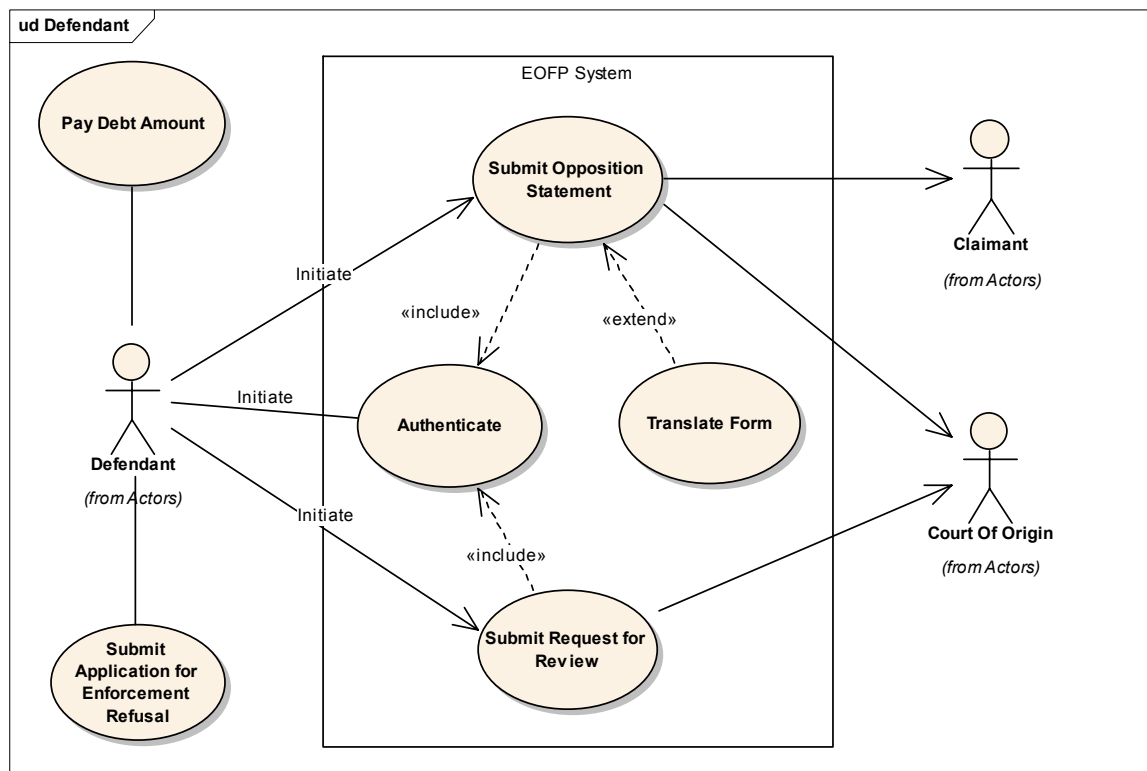


This package depicts the use cases that are specific to the *Claimant* actor.

The *Claimant* actor initiates the procedure by submitting a request for the delivery of a European Order for Payment to the competent Jurisdiction. Depending on the outcome of the examination of his claim by the Jurisdiction, the *Claimant* may have to rectify his application or accept the proposal of the Jurisdiction to change the owed amount on the order. In addition to that the *Claimant* is responsible for the service of the enforceable title towards the Member State of enforcement. The use case “Serve Enforceable Order for Payment” is out of the scope of the system since it is purely paper-based.

Remark: The defendant is informed of the lodging of a claim against him during the execution of the [Use Case “Serve Order for Payment”](#) which is invoked by the Court of Origin actor.

### 3.3.3 Use Case Package for the 'Defendant' actor



This package depicts the use cases that are specific to the *Defendant* actor.

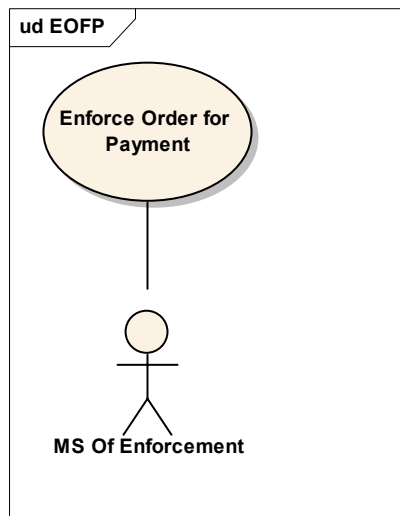
The *Defendant* has the possibility to contest the European Order for Payment delivered by the Court of Origin by lodging an opposition statement to that court. Later in the procedure, the Defendant can also submit a request for the review of the European Order for Payment or submit a request to the MS of Enforcement for the refusal of the Enforceable title delivered by the Court of Origin.

The use case “*Pay Debt Amount*” is out of the scope of the system because it is a manual action executed by the Claimant independently of the provisions of the European Order for payment procedure.

The use case “*Submit Application for Enforcement Refusal*” is also out of the scope of the system because it is a process that is dependant on the national legislation in the MS of Enforcement.



### 3.3.5 Use Case Package for the ‘MS of Enforcement’ actor



This package depicts the use cases that are specific to the *MS of Enforcement* actor.

The *MS of Enforcement* actor can only invoke one use case which consists of the actual enforcement of the European Order for Payment that was issued by the Court of Origin. That use case is not in scope of the European Order for Payment system because it is a process that is dependant on the national legislation in the MS of Enforcement.

### 3.3.6 Cross-border scenarios & Competences

The purpose of this section is to clarify what is a valid cross-border scenario according to the EOFP regulation and also to clarify how the competent Jurisdictions are determined in compliance with the provisions of the regulation.

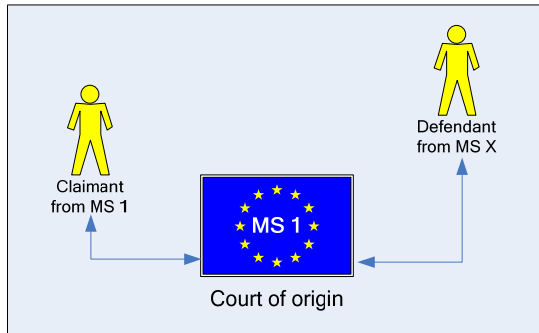
#### 3.3.6.1 Valid cross-border scenarios

As specified in Article 3 of the regulation No 1896/2006, a valid cross-border scenario “*is one in which at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court seized*”. The cases that would not comply with that provision should be rejected by the Court seized. It is not possible/relevant to specify precisely the competent Court of Enforcement in the 4 schemas below as explained in section 3.3.6.2.

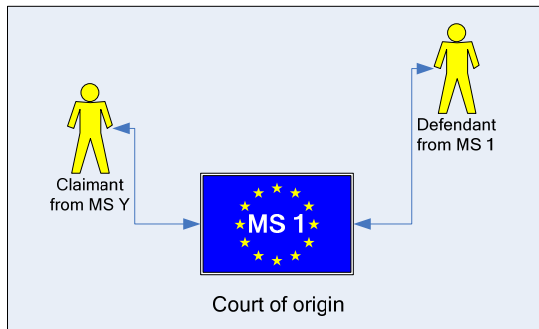
- Valid situation n°1: The Claimant resides in the MS of the Court seized. The Defendant does not reside in the MS of the Court seized<sup>1</sup>.

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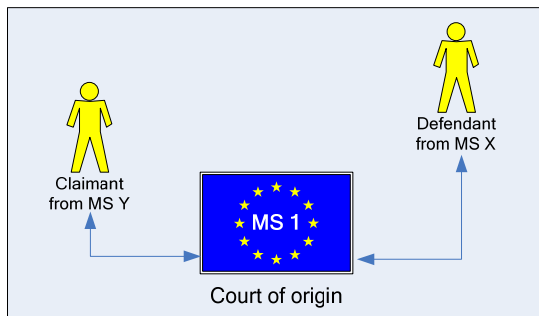
<sup>1</sup> Article 12-13-14 of the regulation No 1896/2006 ([REF2](#)): when the EOFP must be served to the Defendant by the Court of Origin in another MS. There is a specific regulation for the transmission of the legal acts between the MS. The Court of Origin shall stick to that procedure for forwarding the EOFP to the MS where the EOFP shall be delivered. Then the national law in the MS where the EOFP shall be delivered are applicable for the actual service to the Defendant. Obviously the MS of Origin keep an eye on that process and shall be notified of the outcome of the service in an appropriate way.



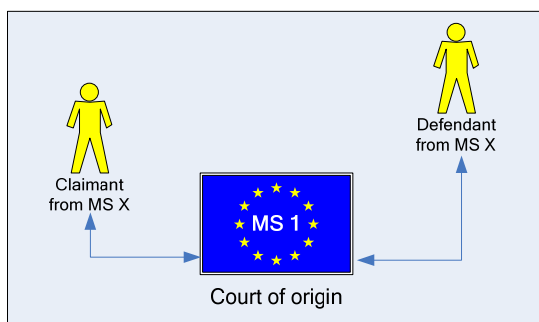
- **Valid situation n°2:** The Claimant does not reside in the MS of the Court seized. The Defendant resides in the MS of the Court seized.



- **Valid situation n°3:** The Claimant does not reside in the MS of the Court seized. The Defendant does not reside in the MS of the Court seized.



- **Valid situation n°4:** The Claimant does not reside in the MS of the Court seized. The Defendant does not reside in the MS of the Court seized. The Claimant and the Defendant are both from the same MS



### 3.3.6.2 Competences

Preliminary remark: As specified in Article 6, 1 of the regulation No 1896/2006 ([REF2](#)), the competence of a Court shall be determined in accordance with the provisions of the regulation pointed at [REF4](#). The exception is, as specified in the regulation, “*If the claim relates to a contract concluded by a person, the consumer, for a purpose which can be regarded as being outside his trade or profession, and if the defendant is the consumer*”. In that case, the Court seized and the Court of enforcement must be in the MS in which the Defendant is domiciled.

- *Jurisdiction to be seized*

When applying for the delivery of a European Order for Payment, one of the Claimant’s duties is to determine the proper Jurisdiction to be seized for the processing of his case. For that purpose the Claimant shall consider the grounds of the court’s jurisdiction/competence.

The possible grounds of the court’s jurisdiction are listed in the standard form A in section 3 (*Grounds for the court’s jurisdiction*). The Claimant must specify the grounds code applicable to his case in section 3 and incidentally indicate why he thinks that the Court seized is competent for handling his case.

The courts that have jurisdiction for issuing a EOfP are published by the European Commission in the *Official Journal of the European Union* but can also be made publicly available through any other appropriate means as specified in Article 29, 2 of the regulation (see document [REF2](#)).

- *Court of Execution*

The following general principal is applicable as specified in Article 1 of the regulation No 44/2001 ([REF4](#)): “*Persons domiciled in a Member State shall, whatever their nationality, be sued in the courts of that Member State*”.

As specified in Article 39, 2 of the same regulation: “*The local jurisdiction shall be determined by reference to the place of domicile of the party against whom enforcement is sought, or to the place of enforcement*”.

Within the context of the execution of a European Order for Payment procedure, it is up to the Claimant to determine which Jurisdiction is competent for the enforcement of the executive title delivered by the Court of Origin. Most of the time, the Jurisdiction of enforcement will be the one where the Defendant has assets.

## 4. USER REQUIREMENTS

### 4.1 Important findings

The purpose of this section is not to summarize all the findings of the requirements elicitation phase of this study but rather to focus on the key ones.

#### 4.1.1 Deployment of an electronic system

The consulted countries did not mention any obstacle regarding the feasibility of deploying an electronic system within their concerned Jurisdictions.

Moreover, as mentioned in a report by the Council Working Party on Legal Data Processing (E-justice) – June 2007 (10393/07):

“In all Member States, workplaces in the judicial system have PCs, the internet is used and there is e-mail communication. In the majority of cases, more than 90% of workplaces are equipped with PCs, internet and e-mail. In 4 countries, between 50% and 90% of workplaces in the judicial system are equipped with computers and in only one country is the figure lower than 50%.”

Generally speaking, the consulted countries are in favour of the dematerialisation of the information support, also in the context of the European Order for Payment procedure

#### 4.1.2 Depersonalisation of the judicial proceedings

The MS generally think that the examination of the European Order for Payment applications should not be fully automated. The reason is that such automation would give an impression of depersonalisation of the judicial proceedings to the EU citizens and economic operators.

The MS are rather in favour of a first procedural examination of the European Order for payment applications by an electronic system followed by a manual examination of the well-founded of the claim by a Judge or a Clerk

#### 4.1.3 Accessibility

The consulted Member States consider that the success of the project is closely linked to the ease for the Claimant to access the features of the future electronic system and to submit his application. The system should provide a very simple access to the standard forms and the user should be guided throughout the whole life cycle of his claim in the system. The deposit of a claim should be very straightforward.

Those recommendations also apply to the administration of the claims by the court officers in the concerned jurisdictions.

#### 4.1.4 Flexibility

Some Member states (e.g. IT, UK, PT, FR, AT, SI, EE, FI, DE) already dispose of an electronic system in support of their national Order for Payment procedure or plan to implement such system in the coming years (PL). Most of those MS would prefer to enhance their system rather than building a new one.

Some Member States (e.g. HU, CY, LT...) have nothing and would be keen to receive a turnkey packaged system that they might also possibly re-use or enhance in order to support their national Order for Payment procedures.

Some countries (e.g. HU, LV, SK, NL...) are closely following the works of the Council e-Justice workgroup on the electronic implementation of the European Order for Payment procedure. Those MS may decide to implement the solution developed by Germany and Austria within the context of the e-Justice program.

Some Member States (e.g. LV, UK...) intend to start by processing the European Orders for Payment in paper format for a couple of months/years and afterwards evaluate the worthiness to invest money in the implementation of an electronic solution.

#### 4.1.5 Massive lodging of claims

The need to implement a bulk processing facility in order to support the massive lodging of claims by big accounts (e.g. corporate accounts) was emphasised by many of the consulted Member States.

In most of the cases, the concerned jurisdiction provides an interface through which the big accounts can submit their claims in batch mode or through web services invocation.

Most of the time also the responsibility of the jurisdiction is limited to the publication of the necessary technical specifications for the big accounts to properly format and submit their claims, while it is the duty of the big account to develop the necessary software for automating the production of his claims.

#### 4.1.6 User authentication

In some countries the identity of the Claimant must be proven by using hardware tokens such as smart cards or USB keys. Based on their experience (e.g. FR), it was mentioned by those countries that there is a risk that the users will be reluctant to use an electronic system for submitting their claims in case the authentication mechanisms are too restrictive.

In some countries the user is authenticated by means of simple login/password mechanisms

In some countries there is no authentication mechanism but the payment of the court fees must be carried out prior to the processing of the claim by the concerned jurisdiction. In such case the authentication of the Claimant is realised through the acceptance and confirmation of the payment transfer by the banking organisation

### 4.1.7 Scope of automation

The interrogated stakeholders (e.g. UK, PT, CCBE, DG JLS legal experts) generally agree that the automation of the European Order for Payment procedure shall stop when there is a handover of the case to the national proceedings (service to the defendant, enforcement, payment)

## 5. DEFINING THE SCOPE

### 5.1 Principles and good practices

**Subsidiarity:** The principle of subsidiarity is defined in Article 5 of the Treaty establishing the European Community. It is intended to ensure that decisions are taken as closely as possible to the citizen and that constant checks are made as to whether action at Community level is justified in the light of the possibilities available at national, regional or local level. Specifically, it is the principle whereby the Union does not take action (except in the areas which fall within its exclusive competence) unless it is more effective than action taken at national, regional or local level.

**Proportionality:** Under this rule, the institutions' involvement must be limited to what is necessary to achieve the objectives of the Treaties. In other words, the extent of the action must be in keeping with the aim pursued. This means that when various forms of intervention are available to the Union, it must, where the effect is the same, opt for the approach which leaves the greatest freedom to the Member States and individuals. The principle of proportionality is clearly laid down in primary law under Article 5, third paragraph, of the Treaty establishing the European Community (TEC).

**eGovernance:** eGovernment policies of the EU and the wider i2010 initiative (using the tools and systems made possible by Information and Communication Technologies (ICTs) to provide better public services to citizens and businesses) are well-established priorities of the Community.

**Consistency (of eGovernment service):** According to this good practice, once a user has started a transaction using an eGovernment service, the interaction with this user should continue and be finalized by the use of electronic means only (internet, mobile phone etc) if possible. Reverting to more traditional types of interaction (use of paper forms/letters, visit to office) should be avoided as it reduces the benefits provided by eGovernment services (comfort of use, gain of time, increased availability etc).

**Adaptability :** Under this good practice, the implication at the Member States of any initiative that promotes the use of eGovernment services at the European level should be allowed to be gradual, flexible and according to the current state of advancement of eGovernment in this Member State.

**Proximity:** For a citizen/economic operator wishing to make an electronic transaction that involves another MS, the order of preference in the use of IT systems is:

- The national eGovernment system
- A pan-European system (providing translation and interfaces in all MS languages)
- The eGovernment system of the other Member State.

#### 5.1.1 Impact to the EOFP system conception

**Subsidiarity and Proportionality:** The EOFP system proposed need only cover what is required for the functioning at the European level, leaving the greatest possible freedom to Member States and individuals. If there should be a split between European and National

components, it would have to take into account which functionality should better be left to the Member States or rather be processed at the European level.

**eGovernance:** A EOfP system is, by nature, promoting eGovernment. But not all Member States possess a National OfP IT system. Designing the EOfP system in such a way as to include a MS-specific part (functionality, modules etc) could further promote eGovernment in Member States that happen to be less advanced in this domain. The relation with the proportionality principle should be taken into account.

**Adaptability:** Two types of impact: A) MS Administrations: An EOfP system that can be deployed in a way that respects the current state of eGovernment progress in the Member States is far preferable to an alternative that will require certain types of IT investments, specific infrastructure or impose certain deadlines on the part of the MS. B) Citizens: Citizens (of MS) well accustomed to eGovernment systems, will react negatively to a proposition of paper-based EOfP process. On the other hand, citizens (of MS) accustomed to traditional methods of interaction (letters/personal visits) might not spontaneously embrace an electronic EOfP system.

**Proximity:** The impact of this good practice is the following: an EOfP system that requires interactions of the third type above (citizen of one MS, directly accessing the eGovernment systems of another MS) will be discouraged and only taken into account in the absence of a better proposition.

## 5.2 Technical possibilities

## 5.3 Digital signature

### 5.3.1 Requirements of the regulation

The digital signature is required on three places in the regulation:

1. Article 7§6 : The application shall be signed by the claimant
2. Article 16§5 : The statement of opposition shall be signed by the defendant
3. Article 13§d: Service with proof of receipt by the defendant.

Even if it is not stated as such, Article 21 §2a could also be concerned with the electronic signature (it could provide a way to establish the authenticity of the enforcement).

### 5.3.2 Description of the issues

The use of the electronic signature is introducing several issues:

- The users have to obtain a certificate from a recognised authority that also provides the necessary infrastructure. This often requires the users to present themselves physically to the authority and to pay for the certificate. Some hardware or software material will be provided and will require installation at home. Certain Member States however, in the context of eGovernment initiatives have already equipped their citizens with digital certificates.
- Even if the regulation 1999/93/CE defines a framework for the electronic signature, presently, the only standardised technology for which the electronic signature is recognised and has the required legal value is the email, with the use of the S/MIME protocol. This restricts the way a user can send the forms to the jurisdiction. Moreover,

specific software/algorithms can't issue signatures with juridical value if they have not been certified.

- The storage of the forms can become an issue as it must not be dissociated from the signature (regulation 1999/93/CE, consideration 18). For the emails approach, this requires that emails must be stored in their original form. However, it could be an advantage to store them in a less complicated format (for quick information access) and therefore an unsigned copy might need to be stored along with the signed one.
- No standard solution exists to keep the validity of the electronic signature of a document when it is materialised once again (printed on regular paper).
- Most importantly, cross-border recognition of the validity of a signature is problematic. From a technical point of view, the certificate of a user is itself signed with the digital signature of the issuing authority. One of the conditions for a signature to be valid is that the certificate of the authority is known to the agent that seeks to validate the user signature. At the present time, this requires that the agent knows the certificates of all authorities that are allowed to provide national user certificates. The reader is strongly encouraged to consult the Preliminary Study on Mutual Recognition of eSignature for eGovernment Application [REF18] (also the study in [REF16] is useful, to the extent that it demonstrates the complexities from a legal point of view). This study provides a detailed analysis of the situation and 19 recommendations to achieve the mutual recognition of eSignature. Some of those recommendations target a possible solution in form of a PKI interoperability service:
  - REC16: Publish, on a central website, a list of Certification Service Providers supervised by their respective national responsible body
  - REC17: Implement the European IDA Bridge/Gateway CA model that uses the centralised administrative structure of a bridge, and distributes trust using both cross-certifications and Certificate Trust Lists.
  - REC19: Set-up a pan-European 'Validation Authority Federation'

The regulation provides an alternative to the use of electronic signatures, essentially shifting the problem from the issue of electronic signatures to that of secure and reliable user authentication. This issue is discussed in the next section.

In spite of this alternative, Article 13§d clearly states that the defendant should sign and return an acknowledgement of receipt whenever electronic means are used to transmit the order of payment (*"service by electronic means such as fax or e-mail, attested by an acknowledgement of receipt, including the date of receipt, which is signed and returned by the defendant"*). Another option is to require the use of article 14 §f (*"electronic means attested by an automatic confirmation of delivery, provided that the defendant has expressly accepted this method of service in advance"*). But this supposes that the defendant has expressly accepted the sending of automated acknowledgements of receipt in advance. This implies a preliminary contact with the administration, and the assurance that the defendant will indeed check his mail regularly and send an acknowledgement of receipt for each order of payment he has received. Therefore, as electronic confirmation depends on the goodwill of the defendant, it can not be considered as reliable. Since however, these conditions are required by the regulation, the implementation will have to make use of paper based approach for the sending of the order of payment.

Regarding article 21§2a, (*"For enforcement in another Member State, the claimant shall provide the competent enforcement authorities of that Member State with: (a) a copy of the European order for payment, as declared enforceable by the court of origin, which satisfies the*

*conditions necessary to establish its authenticity*”) the claimant must serve as intermediary. In that case, a printout of the enforceable order of payment must be done and the procedure must continue on paper. The enforceable order of payment must then be sent by post.

### 5.3.3 Impact to the EOfP system conception

Even if we could assume that all the citizens interested in using an EOfP application, could have access to digital signature facilities, interoperability would still be a problem. In most Member States, the ability to electronically sign is dependent on the existence of an electronic ID. Problems related to the cross-border use of eIDs are presented in the next section.

The description of the issues above shows that it would be more prudent to leave the implementation of this aspect of the regulation (digital signatures) to a later stage in the development of the EOfP system when both the adoption of eIDs by the citizens and the existence of the necessary eID interoperability infrastructure would make it much more convenient.

The regulation however, provides the alternative of pre-registered authenticated users and this can provide a solution until a more mature alternative is there. Still, certain final parts of the interactions will have to be done on paper.

## 5.4 Identity Management

### 5.4.1 Requirements of the regulation

The identity management issues appear in:

1. Article 7, last paragraph : Application for a European order of payment (Users belonging to a group of pre-registered users )
2. Article 16, last paragraph: Opposition to the European order of payment (Users belonging to a group of pre-registered users )

### 5.4.2 Description of the issues

The need to authenticate users requires the set up of an identity management (identification, authentication and user management) module and the attribution of credentials to the users. Most of the times, this attribution requires the physical presence of the users at some place (post office, administration...), so that a link can be made between their identity and the credentials they receive.

Just like electronic signatures, the issue of cross-border validity of identity attributes is problematic. At the European level, there is currently significant momentum for the promotion of electronic identities (eID) in MS, with initiatives from IDABC (mainly concerned with interoperability), standardisation organisations (CEN), the industry and the Community (with a pilot project, STORK worth 20m€ that will investigate issues related to the interoperability of eID. Concrete results are not however expected earlier than 3 years.

In articles 7 & 16, the regulation states that the electronic signature is not required under certain conditions: *“However, such electronic signature shall not be required if and to the extent that an alternative electronic communications system exists in the courts of the Member State of*

*origin which is available to a certain group of pre-registered authenticated users and which permits the identification of those users in a secure manner”*

The interpretation of this clause can be done in different ways:

- Strict: The users of the system are essentially members of the courts of the Member State of origin
- Wider: The users of the system can also be external users as long as they are pre-registered and identified in a secure manner

### 5.4.3 Impact to the EOfP system conception

Strict interpretation of the articles 7&16 would considerably limit the possibility of a claimant from a Member State accessing the system of the Court of Origin (of another Member State) for the following reasons:

- It is highly probable that systems used in courts of MS would not allow access to external users through the Internet for security reasons
- Pre-registration of external users residing in another Member State would be a difficult procedure from an administrative point of view

It is therefore assumed that either a wider interpretation is possible, or a change in the text of the regulation could allow the use of a EOfP system by securely authenticated users, as long as this authentication is guaranteed by technical means.

Assuming a wider interpretation, interoperable eIDs could be used for the secure authentication in the EOfP. But, it is clear from the description of the issues above that, in the short-term (at least in the next 3 years) there will be no concrete solution and therefore a future EOfP cannot solely depend on this method at least in the first phases of its implementation. Under certain conditions however, eID can be used in a EOfP scenario.

Good practices in identity management suggest that, in order to avoid the proliferation of user credentials (certificates, usernames & passwords), new applications should try to utilise credentials already given to the users in the context of existing eGovernment applications.

The following technical possibilities exist for the identity management of the EOfP system in case we accept a wider interpretation of articles 7&16:

- a. Delegation of this functionality to the MS: If we envisage a scenario with split functionalities between a central system and national systems, then the latter can undertake the (national) user identity management in the more general framework of national eGovernment infrastructure. In certain MS, this would require use of eID and constitutes a secure method of authentication.
- b. Set up dedicated identity management functionality: Although this option is against the good practice mentioned previously, it can still be envisaged under particular circumstances such as a limited user base, or during a transitional period. In this case, and in order to avoid further complication of the processes, username & password should be used as the credentials of choice. They should be obtained however using a pre-registration (and identification) procedure.
- c. Use the authentication service of the Community (ECAS): this option can currently be foreseen if the users are officers of MS administrations (e.g. Judges, court secretaries etc). There are plans however to expand the service to external users.

## 5.5 E-Payment

### 5.5.1 Requirements of the regulation

The payment of court fees is mentioned in two places:

1. Consideration 15 : *The lodging of an application for a European order for payment should entail the payment of any applicable court*
2. Article 25 : Court fees

### 5.5.2 Description of the issues

The regulation requires that the introduction of a claim entails the payment of any applicable court fees. The regulation does not harmonise the amount of the fees across MS or the stage in the business workflow when they should be paid. This adds further complexity to the e-Payment process.

The problem is so complicated that a global solution is difficult to build within this project unless there is use of commercial paying facilities. Nevertheless, certain Member states are already confronted with such issues for their national regulation. Interfaces with the national OFP software could be built so that the solution of each Member State could be used depending on the considered jurisdiction. From a technical point of view this is not complicated, provided that the right interfaces and respective specifications are available on the part of the MSs. Since this cannot be certain, it would be more advisable to use the more dependable methods described in the next subsection.

The different solutions must take into account that:

- The fees must be paid to the considered jurisdiction,
- The amount can vary from jurisdiction to jurisdiction,
- The citizen can make a mistake on the amount to pay.

### 5.5.3 Impact to the EOFP system conception

Several methods are possible in order to provide an electronic way to proceed with fee payment. It would be more prudent however, to use those that have been tried and tested in the commercial domain and present a certain level of maturity. In order of preference these are:

- Payment with credit cards (VISA/MasterCard/...) in the way commercial sites do.
- Other commercial-type payment systems (such as Paypal ...)
- A simple 'domestic transfer' information presentation (amount, bank account and reference code) that can be used by the citizen for a transfer in his e-banking application.
- If this function is delegated to the MS systems, any method used by the national eGovernment applications.

## 5.6 Multilingualism/translation

### 5.6.1 Requirements of the regulation

According to the regulation, translation could be required for the following steps:

- When the claimant submits or re-submits the EOfP (form A) request to the court of origin, determined according regulation 44/2001).
- When the court of origin requests for rectifications (form B)
- When the court of origin sends the modification proposal to the claimant (form C)
- When the claimant sends back the amended modification proposal to the court of origin (form C)
- When the court of origin notifies the reject to the claimant (form D)
- When the enforceable EOfP is delivered to the MS of enforcement by the claimant (form E and G). A certified translation is required whenever the language used by the court of origin is not supported by the court of execution.
- When the defendant sends an application form for enforcement refusal

### 5.6.2 Description of the issues

Three categories of information are present on the different forms:

- A. Free text zones that contain information related to the EOfP case (explanation, remarks...). These zones must be translated.
- B. Free text zones that contain information of an administrative nature (numbers, address, name...). These zones need not be translated.
- C. Codes that represent some choice. These codes need multilingual presentation. (The electronic counterpart of codes is implemented by combo boxes. These link a value with some text to present to the user. The text to present depends on the language, but can be translated once for all languages. Then, it is only the multilingual presentation that is needed).

Technically, only information of category A needs translation. Even in that case, some of the free text zones can be replaced by a combo box that will present:

- Some usual text that is filled for the zone (and for which translation can be fixed)
- A specific text (such as “Other”) that can be selected to indicate that some free sentence will be introduced as value.

Using this technique, we essentially provide some of the standard responses in the form of codes (category C) and reduce in this way the appearance of free text.

A deeper inspection of the forms reveals that:

- Forms E, F and G have no free text zone. No translation issues are present.
- Form D has only the following free text zones :
  - The “occupation” field in section 2 (parties and their representatives). This non mandatory field has been re-used from the form A.
  - The “other details” in section 2 (parties and their representatives). This non mandatory field has been re-used from the form A.

- The “further information” in the next section. This field could be implemented by a combo box, with the “other” option.
- Form C has a free text zone used to propose a modification. There is a need for translation.
- Form B is very similar to form D. The same considerations apply
- Form A is the most complex. As free text zones, it contains:
  - The non mandatory attributes in section 2 (parties and their representatives) :
    - ♦ The “occupation” field. It could be implemented by a combo box, with the “Other” option.
    - ♦ Other details. This field needs to remain a free text zone.
  - The “specification” attribute of section 3, for certain cases. This field can be replaced with the combo box with the “Other” option.
  - The “explanatory statement” attribute of section 6 (Principal). This field is non mandatory.
  - The attribute “explanation” of section 8 (Contractual penalties). This is not always applicable.
  - The “specification” attribute of section 5 and 9, when they are applicable. This field can be replaced with the combo box with the “Other” option.
  - The “Description of Evidence” fields of Section 10 (Evidence available in support of the claim). It could be implemented by a combo box, with the “other” option.
  - The non mandatory field of section 11 (Additional statements)

The forms that still face translation issues are therefore of two types:

- Forms B, C and D that are sent from the jurisdiction to the claimant. In this case, the importance of the translation is not as crucial as it is when the claimant sends a form to the jurisdiction. Therefore, it is reasonable to suppose that the user could:
  - Use free linguistic tools of the web (or the standard translation tools of Word Processing software) to perform the translation.
  - Ask some people to make the translation for him/her.

It is not advisable to integrate any automated translation tools within the foreseen application, as juridical issues might arise in case of inexact translation.

- Form A, which is sent from claimant to the jurisdiction. The users can, as above, be helped by automated tools. The claimants should be warned (when they have filled free text zone) that:
  - The free text zone must be filled in the language of the jurisdiction
  - The free text zone will require a certified translation in a next phase, in the case that the language used by the court of origin is not the same as the one used by the court of execution.

### 5.6.3 Impact to the EOFP system conception

The multilingual presentation of codified fields will not present any problem from a technical point of view (being the result of an automated transformation).

By contract, the translation of free text zones can cause confusion unless it is clearly accompanied by warnings that denote the limitations of automatic translation. The usefulness of this functionality is therefore not clear, especially considering that the user can have access to various translation tools available on the Internet.

If the provision of such functionality is decided, the Commission disposes the SYSTRAN tool that provides the necessary interfaces for its use.

## 5.7 Integration with paper-based communication

### 5.7.1 Requirements of the regulation

The issue arises wherever in the regulation, a claimant or defendant are on the on side of a communication channel (i.e. either providers or consumers of information to/from jurisdictions).

### 5.7.2 Description of the issue

All aspects of the regulation can be implemented with the use of paper-based forms either as a choice or because of necessity. Investigating the feasibility of creating a new eGovernment application, we will assume that public organizations (jurisdictions) will not revert to the use of paper as a choice but rather as necessity and only in the case of interactions with the claimants or defendants. We need to analyse therefore, only the cases where one of these actors is part of a communication channel and there is use of paper.

In term of number of possible interactions, it can be observed that:

- 1) 8 kinds of interaction between Claimant and jurisdiction are possible (claim submission, rectification request, etc).
  - a) A minimum of 2 interactions could occur:
    - i) Order of payment sending + receiving of enforceable order for payment.
    - ii) Order of payment sending + receiving of rejection notification.
  - b) A maximum of 6 (plus notification) could occur:
    - i) Order of payment sending + sending rectification form + issue reviewed application + new proposal sending + answer to new proposal + receiving of enforceable order for payment,
    - ii) Order of payment sending + sending rectification form + issue reviewed application + new proposal sending + answer to new proposal + sending of reject notification,
    - iii) Notification received
- 2) 3 kinds of interaction between Jurisdiction and defendant are possible.
  - a) A minimum of one interaction could occur: order of payment sending.
  - b) A maximum of two (plus notification) could occur :
    - i) order of payment sending + notify opposition,
    - ii) order of payment sending + request for review,
    - iii) Notification
- 3) Communication from Claimant to enforcement will only concern one communication
- 4) 2 kinds of interaction between Enforcement and defendant.
  - a) A minimum of one interaction could occur : order of payment enforcement sending
  - b) A maximum of two (plus notification) could occur :
    - i) Order of payment enforcement sending + enforcement refusal,

## ii) Notification

### 5.7.3 Impact to the EOfP system conception

Regarding the interactions of the claimant (points 1&3 above) it can be safely assumed that if he chooses to initiate the procedure using a paper form, he declares his lack of access to an electronic procedure. The jurisdiction therefore needs to answer on paper and continue to communicate in this way. The interest to integrate this type of interaction in a EOfP system would be the following:

- The jurisdiction will continue to work on the PC with electronic forms and will print forms only when communicating with the claimant
- There is only one place of storage (with electronic means)
- Automation of sending through a (registered) post service (e-Sending/e-Registered mail) is possible
- There will be a reduction of overhead as some fields will be available for the automated distribution ( address, ... )

The integration can be done by scanning of the paper forms and Optical Character Recognition, or manual entry of the fields accompanied by the storage of a scanned version. It would be advisable to have at least the second option available as system functionality and leave it to the discretion of the courts of origin to integrate the paper forms depending on the infrastructure (scanners, OCR) at their disposal.

Regarding the interactions of the defendant (points 2&4 above), they are less numerous than those of the claimant. Moreover, two actions involving him (sending of Order of Payment and sending of Order of Payment Enforcement) have to be done on paper. It would be advisable to:

- use an e-registered mail service for this sending (when available)
- Provide a kit (as in the case of England) containing the claim and a temporary username/password in order to access the electronic counterpart of the claim (Order for Payment case)
- Integrate the defendant communication that is done on paper (using scan, OCR, manual entry).

The advantages and constraints would be the same as in the case of claimant above.

## 5.8 Notifications and Bulk claims

### 5.8.1 Requirements of the regulation

Notifications: The need of notification is present in the Article 13 and Article 14: ways to serve the orders to the defendant.

Bulk claims: This is not a requirement of the regulation but of the system users

### 5.8.2 Description of the issues

Notifications: Whenever in the regulation registered mail needs to be used, a notification/receipt/acknowledgment needs to be introduced in the system.

Bulk Claims: The regulation does authorize the issue of bulk claims. Nevertheless, such claims should be performed in a specific way. In particular, there is a need to prevent the use of the regular GUI by a robot in order to issue bulk claims.

### 5.8.3 Impact to the EOfP system conception

Notifications: It is proposed to store an electronic version of the notifications with the corresponding documents. In case of use of an e-Registered mail service, the notification is already in electronic form.

Bulk Claims: Two different interfaces should be available:

- One for single claims (i.e. the normal GUI). The presented interface should be user oriented (wizard presentation, assistance element, help guide, ..)

One for the bulk claims. This part of the application should be more system oriented and security requirements more stringent (serial number required, digital signature mandatory, etc ). In order to avoid exploitation of this interface by robots for the introduction of bulk claims, Patcha technology should be used. This technology will prevent malicious attempts to log-in.

## 5.9 The situation in Member States

### 5.9.1 Introduction

The findings in this section are based on the analysis of the amount of material collected by the study team during an intensive information-collection phase of the project.

### 5.9.2 Miscellaneous

- 8 of the MS who participated to the study have an IT system in support of their domestic procedure. 4 MS do plan to set up such system in a near future, taking into account the particularities of the European Order for Payment regulation. 6 MS do not have a system yet and do not have a concrete project plan for building a system. For 8 MS the current situation is unknown.
- In some countries (e.g. IT, DE) there are plans to make the use of electronic means compulsory in all civil cases.
- In the countries (e.g. FR, AT, DE, NL) where it is not possible for the citizen to submit a claim electronically, the paper-based claims are encoded in an electronic system manually by clerks or civil servants (similar approach). However, there is a clear trend in the countries to abandon those practices and propose, in a near future, a web interface for the EU citizens to submit their claims electronically. In some cases the manual encoding of the claims received in paper format will remain possible.
- In most of the countries that have an electronic system in support of their national procedure, the interactions between the Jurisdiction and the Defendant are paper-based. Except in England where the Defendant has the possibility to lodge an opposition statement through a web interface. The necessary authentication details are sent to the defendant by the Jurisdiction along with the default judgement notification.
- In England, Slovenia and Estonia the Claimant can follow the evolution of the cases he submitted through a web interface. In most of the systems, the court officer can follow online the status of the claims under his responsibility.
- In most of the countries that have an electronic system in support of their national procedure the scope of that system is limited to the submission of the Order for Payment application, the payment of the court fees, the support of the examination process by the judge and the preparation and issuing of the legal title to be sent to the Defendant.
- In the countries where the electronic submission of claims is possible, the rate of such electronic submission is increasingly high and the related projects are considered as successes. However, as mentioned by France, it seems obvious that the implementation of heavy authentication mechanisms can lead to the reluctance of the applicants to make use of the electronic means to submit their claims.

### 5.9.3 Payment approach

In some MS the payment of the court fees must be performed before the claim is submitted to a court for further examination (e.g. FR, LV, SI, UK, PT...). In those countries that approach is regarded as a good means to guarantee that the submitted applications are of good quality. This limits the number of rejections by the Jurisdiction when the grounds of the claims are examined and also prevents the lodging of fake claims by malicious persons.

## 5.9.4 Authentication/certification of users

In some MS the identity of the Claimant is implicitly verified during the process of the payment of the court fees prior to the actual submission of the claim to the Jurisdiction for further examination (e.g. SI and UK). That approach is regarded as a means to improve the accessibility to the proposed service, since it prevents the user from undergoing heavy identification procedure. In such cases a simple preliminary registration in the system (creation of an account and choice of a login/password) can be requested (UK).

In some MS the use of an electronic identity certification mechanism is required (e.g. digital certificate hardware or software, e-ID card...) at least at the moment of the submission of the claim to the system<sup>2</sup>. This is the case in EE, FR [INFOGREFFE], IT, PT.

In IT and PT the claims cannot be submitted directly by the Claimant to the Jurisdiction. The use of a go-between such as a lawyer is mandatory. In such case there is a particular certification process (pre-authentication) between the Jurisdiction and the concerned lawyers.

When the paper-based procedure is used, then it is obviously the written signature which is required on the submitted application form.

## 5.9.5 Examination of the claims

In the MS that have a system in support of their domestic Order for Payment procedure the claim submitted by an applicant first undergoes an automatic procedural validation (e.g. presence of mandatory fields) at the moment it is encoded in the system. As long as the claim successfully passed through that first validation, the grounds of the claims are then examined by a court officer or a clerk. Such examination can be carried out in an electronic way. This means that the necessary information is displayed on screen by the system to support the decision making process.

In Slovenia the examination of the claim is fully automated and the intervention of a judge is only needed in case an opposition statement is lodged by the defendant.

In England the intervention of a Judge is only needed in case the Defendant opposes the Claim or fails to oppose the claim within the imposed delays, provided that the Claimant explicitly requests for such intervention of a Judge.

In most of the countries the examination process is manual and managed by a court officer except in Portugal where the examination process is delegated to clerks and secretaries (administrative process, opposed to legal process).

In all countries the critical decisions concerning a case are managed by a Judge (or a clerk) and not by an IT system.

## 5.9.6 Multilingualism

None of the countries that have implemented an IT system in support of their domestic Order for payment procedure have implemented automated translation mechanisms.

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<sup>2</sup> For example in France the access to the online form is not restricted. Only the submission process is, since the claim must be signed digitally.

In Slovenia there are plans to propose user interfaces in different languages (the common languages in the country).

### 5.9.7 Cross-border aspects of the procedures

In at least 7 MS there is no restriction to the execution of the Order for Payment procedure if the claim has a cross-border dimension. However, in most of the cases the service of the order is not possible if the Defendant does not reside in the concerned MS.

In Italy the service to the Defendant is possible even outside Italy.

Almost no MS could provide figures on the number of cross-border cases they process. However, the consulted MS mentioned that the number of such cross-border cases were very limited.

### 5.9.8 Go-betweens for the submission of a claim

The majority of the MS that participated to the study accept direct interactions between the Jurisdiction and the Claimant/Defendant (e.g. AT, BE, EE, DE, FR, NL, PL...)

In Portugal and Italy, the Claimant must use a go-between (e.g. lawyer or prosecutor) to submit a claim. In those countries all the interactions with the courts are managed through the lawyer during the execution of an Order for Payment procedure (submission, notifications...). (Note: The EC regulation explicitly indicates that the go-between must not be mandatory for European OFP).

### 5.9.9 Service of the legal documents

In all MS that participated in the study the service of the legal documents to the stakeholders of the procedure is carried out by normal postal services.

In some countries (SI, PT, UK) the Order for Payment system interfaces with a national Distribution Centre for the printing and distribution of the legal titles to the Defendant. That interface is, in all cases, electronic and sometimes bi-directional for the return of the status of the delivery by the postal services towards the Order for Payment system.

### 5.9.10 Massive lodging of claims

Almost all countries that have implemented an electronic system in support of their Order for Payment procedure (or that plan to) have implemented a facility to support the massive submission of claims by major accounts such as economic operators (e.g. EE, DE, UK, FR [INFOGREFFE], PT, SI, NL...).

In general, the concerned countries publish interface specifications for the proper use of their bulk lodging modules. It is then up to the applicant (e.g. a corporate account) to build a piece of software that conforms to those specifications.

### 5.9.11 Connection with national registers

Almost all countries that have an electronic system in support of their Order for Payment procedure have built or will build an interface with national civil or business registers which are, in most of the cases, already implemented electronically (e.g. EE, UK, FR [INFOGREFFE], LV, NL, PL, PT, SL, SI).

In France (INFOGREFFE), when submitting a claim, the applicant can search for the details of a registered commercial company in the French commercial register which facilitates the completion of the online application form.

### 5.9.12 Legal data processing in the MS

This section refers to a questionnaire on the use of ICT in Member States by the Council of the European Union<sup>3</sup>. In this section we highlight the aspects of the questionnaire that are the most relevant to this study. The concerned paragraphs of the questionnaire are described in [REF19].

- ✓ In the majority of the MS, electronic documentation is permitted in the courts even if the actual content of the judicial documents are still maintained in paper form
- ✓ In half of the MS national regulation provides rules for compliance with technical standards for electronic documentation
- ✓ Most of the Judicial practitioners in the MS are at least partially involved in works with electronic documents which indicates that it should not be a major concern in case an electronic system in support of the European Order for Payment regulation is deployed
- ✓ Generally speaking the courts in the majority of the MS is familiar with the submission of electronic documents in civil cases. For the other MS, there are plans for law modification in order to allow for such practices. Nevertheless, there are still a few MS for which the submission of electronic documents in civil cases is not permitted.

## 5.10 EOfP Pilot project of Austria/Germany<sup>4</sup>

### 5.10.1 Background

Within the context of the e-Justice working group on Legal Data Processing, Germany and Austria have presented a national initiative (GAS = German-Austrian System) for the development, on the basis of their experience in the national payment order procedures, of an IT

The project was initially designed to implement the core workflow of the European Payment Order. Furthermore, the application supports about 15-20 additional steps on the procedure, e.g. for handling costs and payments or for special written contact with certain parties. Since these steps are not part of the procedure, they are not considered part of the core system and therefore are made configurable for each country. Additional steps can be defined per country if needed.

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<sup>3</sup> 2.4.1 Questionnaire on the use of ICT in Member States' judicial systems - Study Part II: Comparative Analysis (9573/07) of May 2007

<sup>4</sup> Technical information on this section mainly comes from pilot project stakeholders and financial model reflects their proposition. For more technical information please refer to [REF 14].

The system was designed to support the European payment order, so no national workflows were considered. However, since the Steps of the procedure as well as all forms, letters and printing output is configurable and customizable, the application could be as well used for a national workflow. This however implies that the national systems use the same data structures than the EU payment order, since the data model for the EU payment order is a core feature of the system.

## 5.10.2 Technology

The application for the EU Payment Order system was developed as a Rich Client solution based on a well established justice framework from the Austrian automation of justice. It is a 3-tier solution with centralized application servers and databases and individual rolled out clients.

The application server is hosted once for each country, in Germany there are about 20-30 clients connected to the server in Berlin Wedding Local Court, since this court processes all applications centrally for the whole of Germany. In Austria the clients are rolled out across about 160 courts with about 900 clients.

Based on the experience from the first months of the procedure, Austria is planning to change also to a centralized approach for the European Order for Payment Procedure. The central court will probably be a court in Vienna.

### Open standards

This solution is based on open standards where possible.

- The client requires just a Java 1.6+ VM
- The application server can be any J2EE compliant server
- Output of forms is realized through Apache Formatting Objects
- Persistence support through Apache Ibatis
- Platform independent XML-mapping via Apache Axis
- Logging through Log4j

### Platform Independence

The solution is platform independent but is not tested on all platforms

#### *Client side*

- Requires Java JDK 1.6+
- No operating system specific features are used
- Only tested on windows in Release 1.1

#### *Server side*

- Standard J2EE container needed
- Java JDK 1.5+ needed
- Any operating system can be used
- Tested on Linux

### Application Server & Database

Solution was designed to run on different combinations of AppServers and Databases

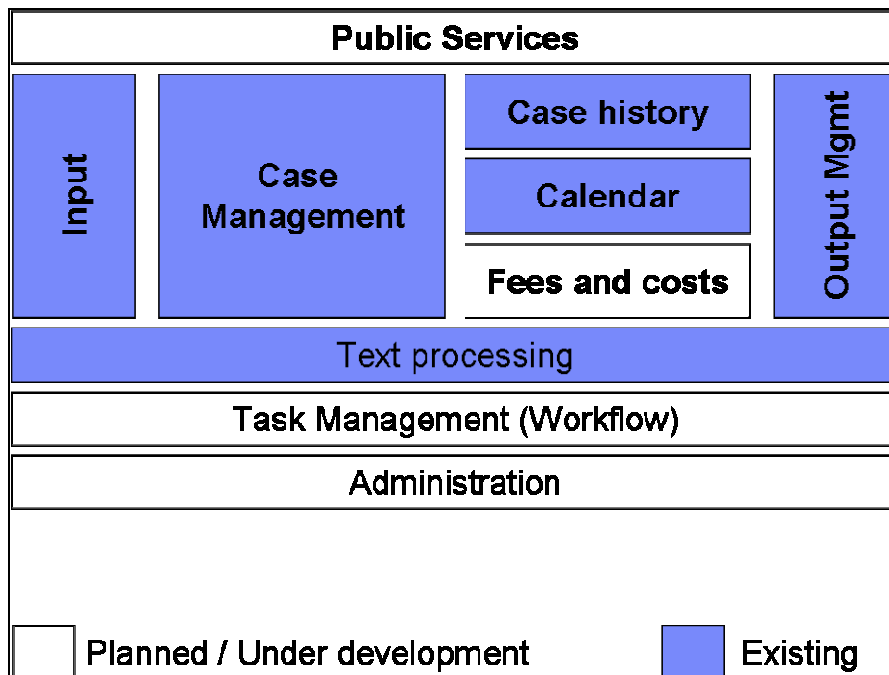
- Currently developing and testing on two different combinations (WebSphere / DB2 and Glassfish/Informix)
- Production environment is currently Glassfish and Informix
- Further tests can be done on Oracle

### 5.10.3 Features

The system supports the following functionalities:

- Support for all application data of the EU Order for Payment procedure
- Support for all forms and all parties of the EU Order for Payment procedure
- Generation of all forms of the procedure
- Generation of individual letters and also combinations of letters and output forms for printing
- Storage of all forms that have been generated by the system
- Rich Text Support for Letters
- Textblocks for very-fast Text editing

This is an incomplete list of features, since the framework provides many convenience features for work with case data and all these features are implicitly part of the solution.



**Figure: Functional Blocks of the current EU Order for Payment application**

The solution is clearly targeted as a back office application for staff processing applications for the European order for payment procedure. In this context, the solution enables court staff to process the applications with a minimum of work and to generate all required forms for the Order for Payment Procedure.

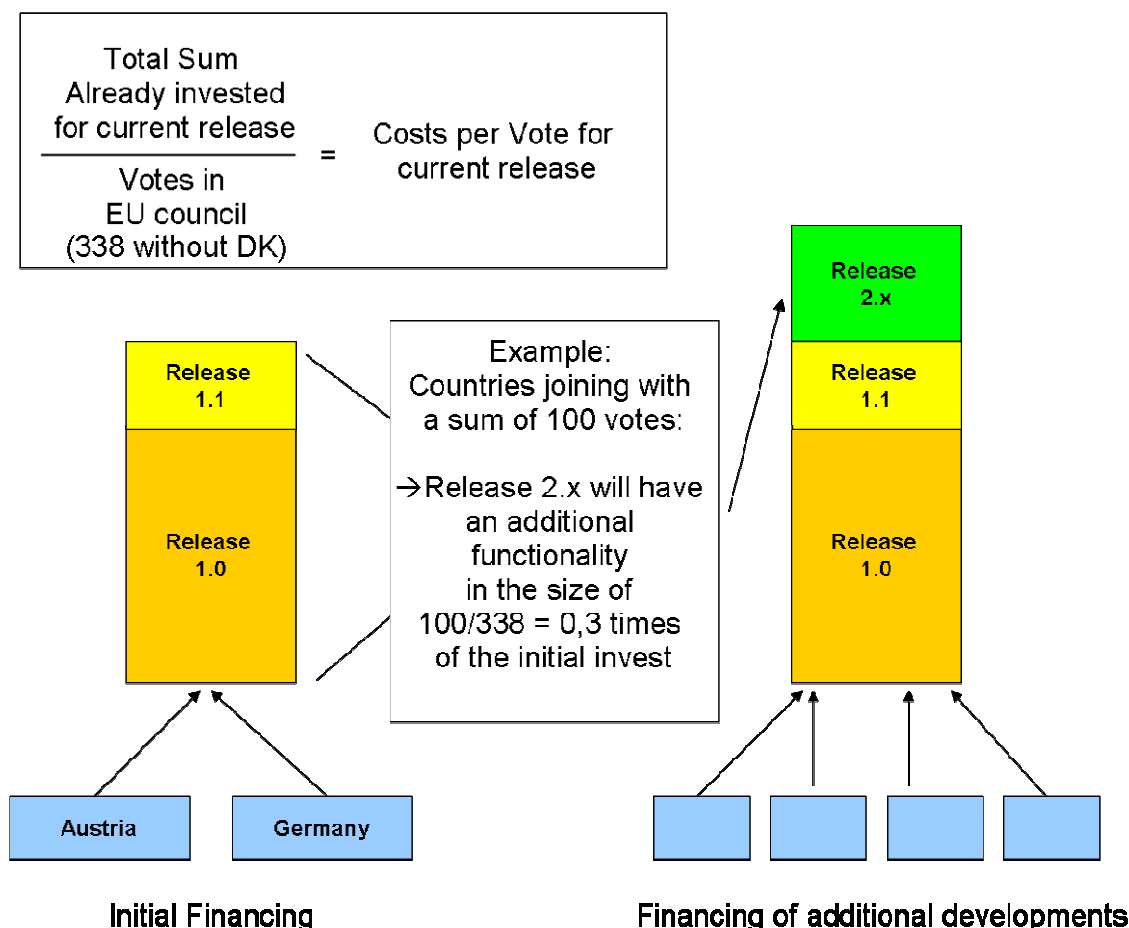
The solution is based on standard data- and communication formats wherever possible, so there is no vendor lock-in or product dependency. Furthermore the system supports multiple combinations of application servers and database systems, so solutions can be integrated easily into existing infrastructures.

Since all communication of the process is performed via XML and SOAP messages, an ESB or message hub can be connected and therefore open the application to extended justice infrastructures.

### 5.10.4 Financing model

There is no license fee or software costs for the solution, however joining countries are expected to contribute a service charge for further developments. This service charge will be used for further developments of the solution.

Austria and Germany do not expect to re-finance their investments through new members joining the development cooperation; however they do expect new members to take a share on further developments of the system.



**Figure: Cost sharing model for subsequent releases**

The model for financing further releases is depicted in the previous figure. This means that the total costs for each country are reduced to only a fraction of the total costs of the initial release.

The more countries join in, the bigger the amount of money available for further developments. These amounts exclude VAT and other additional costs or taxes, since they can differ in the EU MS. It should be clear that all financing done by new project partners will be used for FUTURE investments, not for re-financing of existing investments.

The project partners believe that this is a very good cost sharing model, especially since the framework in use was financed originally by Austria and provides much more functionality than a development from scratch would have provided. This calculation keeps the costs to a minimum for new partners and at the same time enables the project partners to develop more functionality which then again can be delivered to the using countries of the European payment order.

## 6. TECHNICAL SOLUTIONS

### 6.1 Outlining the solutions

#### 6.1.1 A. Minimal deployment

Three main arguments indicate that the first and most basic involvement of the Community in the automation of the EOfP regulation is the provision of a basic ‘interoperability layer’ that will facilitate the exchange of information between existing or future national systems:

- a. The fact that Member States advanced in eGovernment and possessing a National OfP system are willing to modify their own system to treat EOfP, instead of using a separate system.
- b. The subsidiarity and proportionality principles and the need for a clear distinction between National and Community components.
- c. The fact that the EOfP, viewed from a business point, can be considered as the cross-border extension of a standard transaction, common to the citizens in the Member States. As such, its integration in the existing eGovernment initiatives in the Member States should be taken into account.

From a technical point of view, this basic interoperability layer can be provided by an Enterprise Service Bus (other term: Message Oriented Middleware). This will essentially be an intelligent hub that will be installed centrally and will transfer properly structured XML messages from the system of one MS to the right destination in another MS. It will also provide validation, translation and additional services.

From a MS and citizen point of view, the existence of this interoperability layer will guarantee that when ALL the actors of an EOfP claim are coming from Member States that provide relative eGovernment services, the transaction can be processed (to the extent that is allowed by the regulation) in a purely electronic way.

#### 6.1.2 B. With back-office<sup>5</sup> support

The previous statement could also be the long-term goal of the Community in terms of the automation of the EOfP: having MS eGovernment systems (properly adapted for the needs of regulation) exchange the necessary data in a transparent way.

However, the study has shown that few Member States already have an infrastructure that could be adapted/used. Some other have future (short or longer term) plans and many MS have nothing in terms of automation of National OfP for the moment. Therefore, since the EOfP involves actors from different MS, we will have the following problem: a claimant from a MS with advanced eGovernment services will be hindered in the use of these services, if the court of origin is in a MS without the proper infrastructure to respond. And turning a transaction that

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<sup>5</sup> The distinction front-office/back-office is done with the customer (e.g. citizen, enterprise) in mind and not the information system (i.e. it does not correspond to the presentation/persistence tiers of an IT system)

started as an eGovernment service, midway, into a traditional paper-based one, is certainly not good practice.

From a technical point of view, and in order to avoid this problem, the Community could envisage the creation of a module that would allow jurisdictions of MS (that are not equipped with a NOfP system) to plug in the ‘interoperability layer’ and just treat (respond to) EOfP requests. In this way, the citizens that start an eGovernment procedure for a EOfP can finalise it in an electronic way, independently of the MS where the court of origin resides. The module should be easy to install and use. The image of a module that connects to the Enterprise Service Bus and provides the necessary back-office functionalities to the Court of Origin via a simple internet connection and a web interface is the first that comes to mind.

If such a module is constructed using open standards and open architecture, it will provide the following advantage: it can be re-used by the MS that will eventually want to build a National OfP system. It can be readily integrated to the future national system and equip it with the European part of the OfP system functionality. It is not an exaggeration to say that, as described, alternative B will help in advancing eGovernment.

### 6.1.3 C. With front-office support

If alternative B is implemented successfully, we will end up with the following picture of the European citizens with regard to the EOfP procedure:

- Category 1. Citizens with the necessary national eGovernment infrastructure at their disposal, can successfully process an EOfP in a fully electronic way (to the extent that the regulation permits).
- Category 2. Citizens not having access to a national eGovernment infrastructure need to use the traditional paper-based procedure.

Taking into account the ‘proximity’ good practice we can propose the following, in order to complete the picture of a pan-European end-to-end EOfP system:

For the citizens of category 2 above, we could envisage a front-office module with interface that would plug in the Enterprise Service Bus and would allow them to issue (just) European OfP with the use of a web-based interface (browser).

Such a module can be installed in the same infrastructure as the Enterprise Service Bus and provide interfaces in all MS languages. It will have the following advantages:

- Having the characteristics of the module in alternative B above, it can be made reusable and promote eGovernment.
- Allow the MS that do not provide the necessary infrastructure, to still be able to point their citizens to an eGovernment service of a European dimension
- Allow the MS that **do** have national eGovernment infrastructure, but do not wish to readily adapt it to the EOfP, to still be able to point their citizens to a service of a European dimension.

## 6.2 Alternative A: Minimal Deployment

### 6.2.1 Description

The Enterprise Service BUS (ESB) central facility described in this alternative will serve the interoperability needs of Member States' systems (normally IT applications of National OfP) that have been adapted for use with the European OfP. It is unavoidable, in the sense that certain MS will prefer to use their adapted National systems in order to serve EOfP, independently of (or in parallel with) other proposed solutions. Also, it will serve the Alternatives B and C if they are implemented.

This facility (see figure in next page) will essentially route properly structured XML messages (after validation and transformation) through Web Services and provide some additional services. The identification between systems will be done with pre-encoded SSL certificates (client & server). An important work that will have to be done in the context of this facility is the specification of these XML messages and Web Services.

#### 6.2.1.1 Basic Processes

**Routing:** process in charge of routing the XML messages to the right destination with respect to the actual state of the claims and information filled in them.

**Workflow:** process keeping track of status of claim and performing the necessary tasks.

**Validation:** In charge of validating the XML documents (mainly the claims) to verify if they are correctly filled. It can check syntax (presence of fields) or semantics (validity of the values in the fields with respect to certain business rules).

**Storage:** Storing XML documents for back-up, redundancy and statistics purposes or primary storage of documents in the case of use of alternatives B & C. Also, provide an interface for queries/reporting.

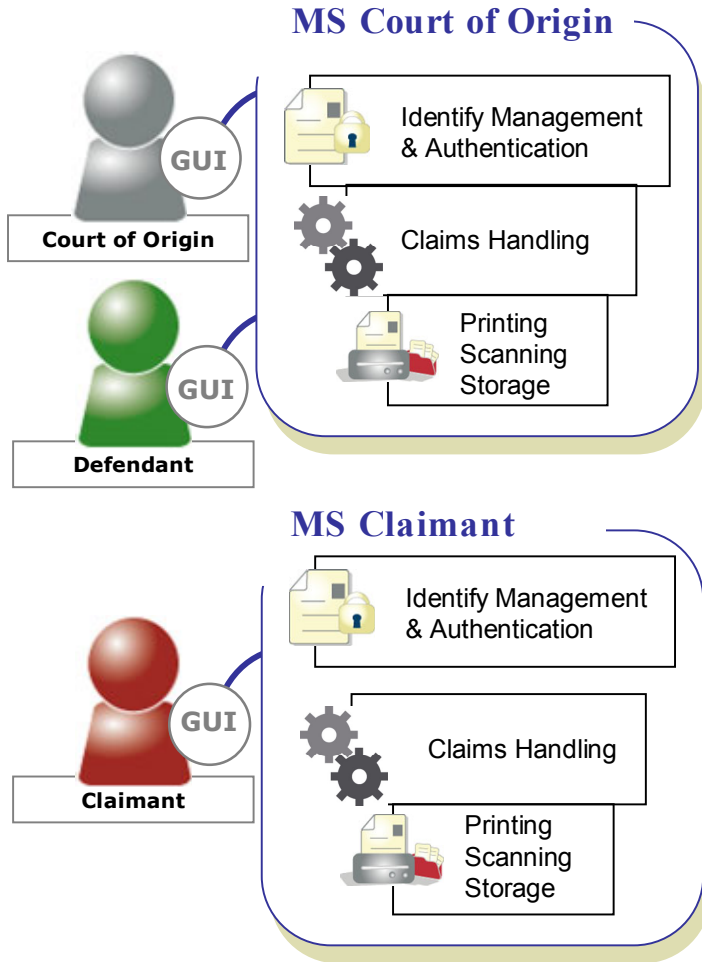
**E-payment:** Facilitating electronic payment using commercial credit card facilities

**Translation:** Provide transformation to the coded zones and translation to free text zones when required (possibly with the use of Systran).

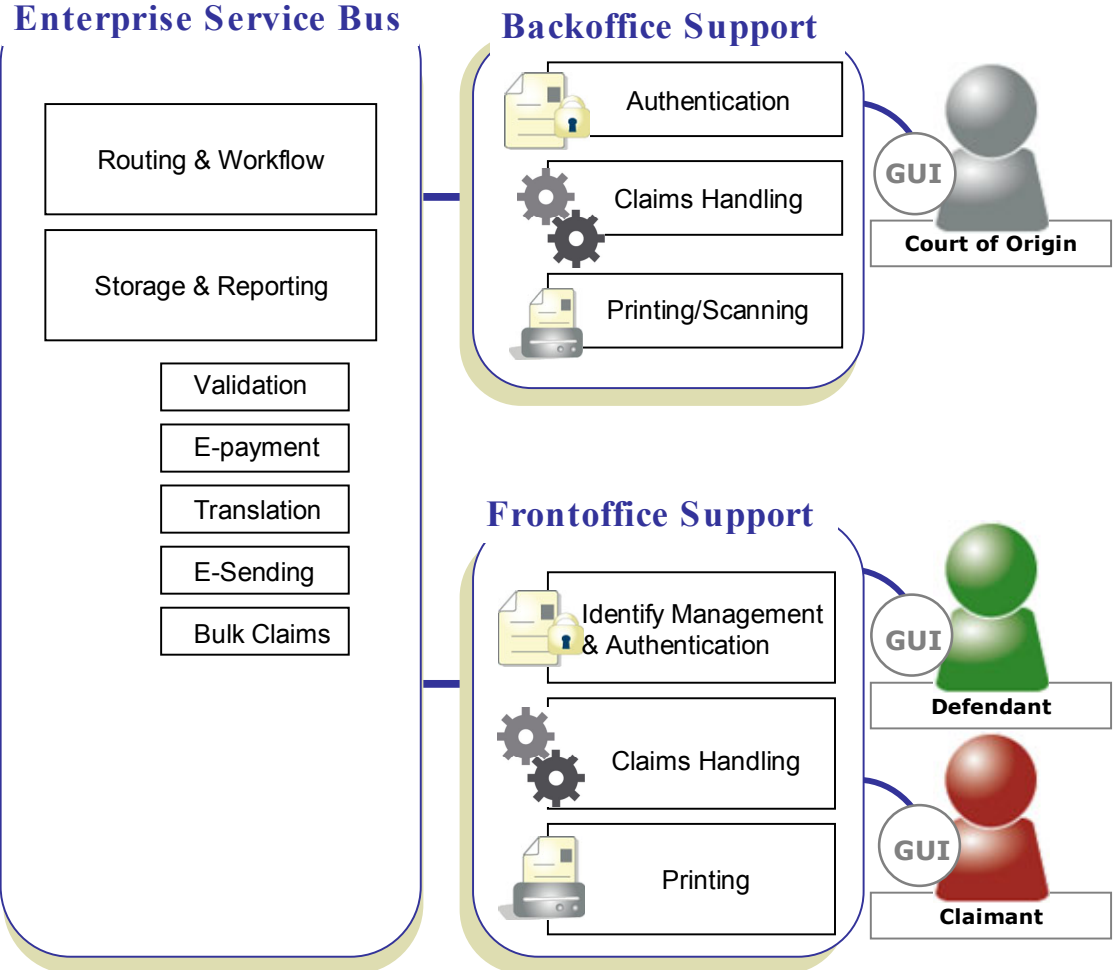
**e-Sending/e-registered mail** (optional, depends on availability): Sending to the correct destination (defendant, claimant or to given jurisdiction) in paper format. Process required in case of integration with external e-Sending facility (e.g. services provider).

**Bulk Claims:** System interface for this type of functionality (see also 5.8)

### Adapted National OfP systems



### European OfP Alternative C

## Processes left to Member States

**Identity Management and authentication** of Claimants, users in Courts of Origin and Defendants

**User Interface and functionality** similar to the use case packages (see also [REF10]) for:

- Claimant,
- Court of origin,
- Defendant

**Storage:** Primary storage of XML documents, forms and associated documentation.

## 6.2.2 Technical issues

### 6.2.2.1 Compatibility with existing systems

From the moment that the specifications of XML messages and Web Services pertaining to the ESB are published, the MS need to adapt their existing eGovernment applications (these can be basic workflow applications or NOfP applications) in order to be able to send and receive the right messages with the ESB facility. Although this type of exchange of messages is standard practice for many years now in applications that exchange data for European purposes, the list below shows some comments related to existing OfP systems in MS.

- Estonia : Exchange can be supported by X-Road (web services enabled for rpc, xml for data exchanges)
- France: Infogreffe (XML exchange format, Web Services do not exist but can be implemented), LIPTI (adaptations need to be done)
- Germany/Austria: The common EOfP pilot of these countries is already based on XML messaging (XML templates have already been designed) and the implementation of Web Services will not be an issue. Using this pilot and the ESB, the countries can readily implement an automated version of the EOfP.
- Italy: Biztalk can be used as the central system (supports Web Services and all types of XML transformations)
- Portugal: XML is already produced for the interfaces with the postal services and accepted for the claims.
- England: Use of Web Services and XML by the existing infrastructure

### 6.2.2.2 Technical options

**Identity Management and authentication:** These processes are delegated to the MS and will be done at the National level according to the eGovernment practices of each MS. The Enterprise Service Bus expects messages from MS systems that have already authenticated their users.

**Digital Signatures:** According to the results of the preliminary analysis presented in 5.3.3, the use of digital signatures is not foreseen, at least in the first phases of the implementation of the EOfP system.

**Multilingualism:** Since the users will be utilizing eGovernment services of their own MS, the forms will be always edited in their own language (Note: the information in the free text zones will still need to be in the language of the court of origin). Once routed through the Enterprise Service Bus, the forms will appear at the destination at the language of the destination interface.

Translation of free text can be done manually using Web/MS Office tools or automatically through the ESB.

**Bulk claims:** The national interfaces for massive lodging of claims will transform and forward the properly structured XML messages to the ESB. In this case, the claimants (companies) need to receive the credentials (and the specifications of the Web Services) from an administration.

**e-Sending/e-Registered mail:** By using this type of third-party facilities (subject to availability) a paper copy can be sent to the actors of the system and notifications regarding the status of the delivery can be obtained.

**E-payment:** The fees (if any) are designated by the court of origin which, in most cases, will be in another MS. Amounts and bank account information will vary. The following solutions are possible:

- Presentation to the claimant of information necessary for a (e-)bank transfer, adapted to the needs of each MS. This information can be provided by a service of the Enterprise Service Bus or as part of the workflow of the eGovernment system of the MS. A Web Service or web interface (from the part of the court of origin) can be used to confirm the payment.
- Use of an e-Payment service (of the Enterprise Service Bus) that will make use of a commercial credit card payment facility, with the added advantage of immediate confirmation of payment.

## 6.2.3 Technical components

Two choices are given for the software of the Enterprise Service Bus:

### 6.2.3.1 Open Source

The required functionality can be implemented with JBoss Enterprise SOA Framework comprised by ESB, jBPM, jPDL and Rules (Drools). This BPM (business process management) software offers (amongst others) a programmatic structure for designing transactions and executing them using automated decisions, tasks and sequence flows. It can be used in order to support the different processes and as a workflow engine. The JBoss framework is already used in at least two Member States. For part of the functionality (indication of status, notifications, state inspection etc) a J2EE application can be developed in the form of Web Services.

JBoss JBPM can be integrated with JBoss Seam, an application framework for building next generation Web 2.0 applications by unifying and integrating technologies such as Asynchronous JavaScript and XML (AJAX), Java Server Faces (JSF), Enterprise Java Beans (EJB3), Java Portlets and Business Process Management (BPM).

MySQL can be used as the database

### 6.2.3.2 Commercial software

Weblogic (for the support of web services, servlets, etc) and Oracle (for the database) are two products included in the list of software that is supported at the Commission. They have been chosen as the commercial products that represent the state of the art in the field. Although they don't have the advantages of Open Source products, they remain extremely powerful and quality products for Application Servers and databases respectively.

### 6.2.3.3 Hardware

The choice of hardware is standard:

- An Application Server (that will support the services and the central Java service)
- A Database Server with substantial storage capacity.

More information on the system requirements can be found in [REF15].

### 6.2.3.4 Recommendation

The JBoss solution is recommended for the following reasons:

- It is an OpenSource solution and, as such, it is supported by various Community initiatives and especially IDABC.
- Although products of this type are generally regarded as lacking support, the JBoss products have based their commercial approach not on the product itself but the support services that are associated with it. The European market is considered mature in what concerns professional support services for JBoss
- The very nature of the Open Source products suggests that they are based on open architectures and open standards. The JBoss framework was constructed with this point of view and supports all open initiatives and standards. MySQL was also chosen for this reason
- Since the source code of these products is available, many initiatives of code review lead to quicker discoveries of faults (bugs, vulnerabilities) and faster corrections. Also, the availability of code leads to products that are more modular and a community of experts much more important than that of commercial products

## 6.3 Alternative B: With back-office support

### 6.3.1 Description

This alternative is proposed in conjunction with Alternative A, i.e. it can only be used with a Enterprise Service Bus. It is essentially a module that will allow jurisdictions in the MS to treat European OfP via the Enterprise Service Bus. In this way, MS without national systems for OfP will still be able to process European OfP and, in this way, will not present an obstacle to MS that want to offer a reliable and transparent eGovernment service to their citizens. This service needs to be available to all European jurisdictions (at least those that need it) without delays, be easily deployed and reliable. It has to be a web-based service that will use the same infrastructure as the Enterprise Service Bus. It has to be created with reusability in mind, so that its functionality can be utilised by national systems under construction.

#### 6.3.1.1 Basic processes

**Identity Management** (optional) and **Authentication**: Authenticating the User Base in the courts of Origin in the MS

**User Interface** and **functionality** for the Use Case package for the ‘court of origin’ actor (see also [REF10]):

- “Revoke Order for Payment”
- “Check Application Details”
- “Issue Rectification Request”

- “Issue Modification Proposal”
- “Reject Application”
- “Issue Order for Payment”
- “Serve Order for Payment”

**Printing/scanning:** For use in cases when paper-based communication is needed

**Search/Reporting:** For making queries to the system and produce statistics & reports

### 6.3.1.2 Processes left to Member State(s)

**Identity Management and authentication** of Claimants and defendants

**User Interface and functionality** similar to the use case packages (see also [REF10]) for:

- Claimant,
- Defendant

**Storage:** Primary storage of XML documents, forms and associated documentation. Storage also takes place in the Enterprise Service Bus

## 6.3.2 Technical options

**Identification:** The users will need to log in this module using their web browser. There are two possibilities:

- The most straightforward solution is to have a certificate on the side of jurisdiction, signed by an authority. The name of the authorized person would be given once in the identity management module. This will avoid problems with the management of passwords and the general security policy.
- Since the module will be provided by the Community and the user base is limited, ECAS, the Community authentication server could be used for identity management. This service is mature and has great experience in interactions with diverse users in the MS.

**Multilinguism :** It is up to the claimant to present the information in the right language and therefore such issue does not exist in this option. The content of the information will be presented using the right labels.

### 6.3.2.1 Components

It is suggested to use the JBoss framework (see also Alternative A) for the user-functionality.

The GAS EOfP pilot project of Germany and Austria could provide re-usable components for the type of functionality in this alternative. Under certain circumstances (conversion to a thin client web-based interface) this project could cover the full back-office functionality [REF14]

## 6.4 Alternative C: With front-office support

### 6.4.1 Description

This option can only be used in conjunction with Alternative B. It will allow users from MS that have no IT infrastructure related to national OfP, to still be able to submit their European OfP claims. This module is more complicated than the module of the previous alternative since it will need to deal with a more complicated workflow and a wider user base (European citizens). This complicates the issue of identity management. However, it can be constructed on the basis of open standards and open architecture and therefore be re-usable by the MS in their deployments of national OfP systems.

The module will have to provide graphical user interfaces for the claimant and the defendant.

### 6.4.2 Basic processes

**Identity Management and Authentication:** Authenticating the claimants and defendants

**User Interface and functionality** for the Use Case package for the ‘**claimant**’ actor (see also [REF10]):

- “Submit Application”
- “Pay Court Fees”
- “Complete Modification Proposal”
- “Rectify Application”

**User Interface and functionality** for the Use Case package for the ‘**defendant**’ actor (see also [REF10]):

- “Submit Opposition Statement”
- “Submit Request for Review”

**Printing:** For use in cases where a (manual) signature is needed

### 6.4.3 Technical issues

**Identification:** The discussion in 5.4.3 has shown that the credentials used by the citizens in the national eGovernment applications can not be utilized in the context of this Alternative. Moreover, the user base now comprises the public and ECAS probably cannot be taken into consideration (although there are plans to extend this service to external users). As a result a separate web-based identity management module, specific for this system, should be developed.

The necessary credentials (username/password) have to be given to the user by an administration. The users can:

- present themselves to an administration (court or other) and receive the credentials (showing their identity)
- send a fax to an administration (copy of their identity card) in order to receive a ‘connection kit’ (as is the case in England) with the necessary login information

On the other hand, the administrations need to have a web interface at their disposal in order to be able to create a new user with a password created by the system and a validity date. These credentials will be linked with the name/address shown in the identity card.

Especially in the case of the defendant, the credentials can be sent along with the enforceable OfP in a 'connection kit'. His identity will be confirmed by the postal service (subject to the existence of this possibility)

#### **6.4.3.1 Components**

It is suggested to use the JBoss framework (see also Alternative A) both for the user-functionality and the identity management module.

## 7. IMPLEMENTATION ASPECTS

### 7.1 Cost

For a detailed justification of costs and deployment options, the reader is referred to the [REF13]. The cost of licenses is not included and will influence the cost of Alternative A only if the option that includes COTS products (Weblogic + Oracle) is chosen.

#### 7.1.1 Alternative A

##### 7.1.1.1 Community-related

Expenditure	Amount in K€
Development	390
Maintenance (corrective + evolutive)	12/year
Support	15/year
Training	6
Infrastructure	45
Total for 5 years	549

##### 7.1.1.2 Member State related

Worse case scenario (most complex) for adaptations is estimated at 30K€ and would concern a maximum of 4 existing MS systems. Average scenario of adaptations is estimated at 15K€ and concerns an estimated maximum of 13 National systems<sup>6</sup>. For the rest (10) they will be newly developed, and therefore the specifications of the EOFp system will already be available. Adaptation cost in this case would be close to 0€

Expenditure	Amount in K€
Development	315
Maintenance (corrective + evolutive)	10/year
Support	10/year
Training	0
Infrastructure	15
Total for 5 years	410

<sup>6</sup> This corresponds to 13+4 National systems that will be available by the time the EOFp is designed and therefore will require adaptations. This scenario is clearly optimistic but was nevertheless chosen to cover all possible costs.

## 7.1.2 Alternative B

### 7.1.2.1 Community-related

Expenditure	Amount in K€
Development	590
Maintenance (corrective + evolutive)	15/year
Support	20/year
Training	10
Infrastructure	50
Total for 5 years	790

### 7.1.2.2 Member State related

Worse case scenario for adaptations is estimated at 30K€ and would concern a maximum of 4 existing MS systems. Average scenario of adaptations is estimated at 15K€ and concerns an estimated 13 of the National systems. For the rest (10) they will be newly developed, and therefore the specifications of the EOfP system will already be available. Adaptation cost in this case would be close to 0€. Because of the existing back-office support to the procedure, some of the MS might opt not to develop/use/adapt their National OfP. But since their number is not known, they are not taken into account in the analysis.

Expenditure	Amount in K€
Development	315
Maintenance (corrective + evolutive)	10/year
Support	10/year
Training	0
Infrastructure	15
Total for 5 years	410

## 7.1.3 Alternative C

### 7.1.3.1 Community related

Expenditure	Amount in K€
Development	850
Maintenance (corrective + evolutive)	20/year

Expenditure	Amount in K€
Support	25/year
Training	10
Infrastructure	55
Total for 5 years	1095

### 7.1.3.2 Member State related

In this alternative, there is no real need for the MS to adapt their systems. Some, however, might choose to do so. The average scenario of adaptations is estimated at 15K€ and could concern 5 existing National systems. We need not forget that newly developed National OfP systems have zero adaptation cost.

Expenditure	Amount in K€
Development	75
Maintenance (corrective + evolutive)	5/year
Support	5/year
Training	0
Infrastructure	5
Total for 5 years	120

## 7.2 Deployment

### 7.2.1 Alternative A

The production of this system will require approximately 11man/months of Analyst/Designer effort and 15 man/months of Developer effort. A RUP-based schedule therefore for a team that includes 2 Analysts/Designers and 3 Developers is the following:

Phase	End-date	Main subject
Inception	T0 + 20days	Reading, revision and adaptation of the documents produced in the feasibility study.
Elaboration	T1 + 55 days	Architectural definition (starting from results of the feasibility study)
Construction	T2 + 80 days	Implementation phase (several iteration will be performed in this phase).
Transition	T3 + 20 days	Packaging, installation, configuration and correction of the developed product. Also, configuration and change management

## 7.2.2 Alternative B

The production of this system will require approximately 17man/months of Analyst/Designer effort and 23 man/months of Developer effort. A RUP-based schedule therefore for a team that includes 2 Analysts/Designers and 3 Developers is the following:

Phase	End-date	Main subject
Inception	T0 + 30days	Reading, revision and adaptation of the documents produced in the feasibility study.
Elaboration	T1 + 70 days	Architectural definition (starting from results of the feasibility study)
Construction	T2 + 110 days	Implementation phase (several iteration will be performed in this phase).
Transition	T3 + 25 days	Packaging, installation, configuration and correction of the developed product. Also, configuration and change management

## 7.2.3 Alternative C

The production of this system will require approximately 23 man/months of Analyst/Designer effort and 33 man/months of Developer effort. A RUP-based schedule therefore for a team that includes 3 Analysts/Designers and 4 Developers is the following:

Phase	End-date	Main subject
Inception	T0 + 25days	Reading, revision and adaptation of the documents produced in the feasibility study.
Elaboration	T1 + 70 days	Architectural definition (starting from results of the feasibility study)
Construction	T2 + 110 days	Implementation phase (several iteration will be performed in this phase).
Transition	T3 + 25 days	Packaging, installation, configuration and correction of the developed product. Also, configuration and change management

## 7.3 Additional options due to pilot project

### 7.3.1 Context

The solutions proposed so far being considered mature and stable, it would be prudent to compare the Pilot Project and its options with regard to the above mentioned alternatives. Work done so far in the pilot project corresponds to functionality of Alternative B in the study, without however the ESB. The added value of the pilot project therefore, corresponds to the cost of development of this functionality, something that is estimated in the study. It is roughly the cost of development of Alternative B (including substantial corrective maintenance) minus the

cost of development of alternative A and thus, around 240K€. The pilot project offers additional functionality (e.g. rich text editor, templates) but this cannot be regarded as a serious advantage since it is not needed in the context of EOfP. It will therefore not be taken into account.

The functionality that still needs to be developed in the Pilot project corresponds to the additional functions of Alternative C with regard to Alternative B, i.e. front office (customer) support. Also, the functionality provided by Alternative A (in the form of ESB or other).

To conclude, with regard to the range of solutions proposed in the previous sections, the Pilot Project corresponds to the back-office functionality of Alternative B (or C) and still needs to develop front-office and interoperability functionality.

### 7.3.2 Cost

The total cost of a fully functional system based on the pilot project would be equivalent to the development cost of Alternative C plus the cost of deploying server systems in each Member State. This second cost can be estimated as follows:

- Infrastructure for a National installation: 4 average capacity servers (2 production servers + 2 test servers) running open-source versions of the pilot system (based on JBoss/Glassfish and Mysql), properly installed and configured (10 man/days).
- Deployment of above infrastructure at an estimated 20 Member States (the remaining 7 MS might choose to adapt their existing National OfP systems)

The total cost would amount to:

Expenditure	Amount in K€
Development (cost taken from Alt. C)	850
Maintenance (mainly evolutive)	40/year
Support	30/year
Training	30
Infrastructure	320
Total for 5 years	1510

### 7.3.3 Assessment

The pilot project only facilitates work in courts in the Member States (back-office) without electronic interaction with the citizens. Although this is a setup that enables the automation of some business processes, it cannot be considered an e-government application and was not what most of the stakeholders had in mind when describing a EOfP system.

The pilot project has no clear visibility in the potential problems and issues of a pan-European deployment that would also involve (provide an interface to) European citizens:

- need for a pan-European ESB (otherwise unmanageable),
- access from advanced or less advanced countries,
- the need for back-office support from all countries,
- the authentication and digital signature issues

As a result, the pilot project cannot accurately estimate the cost of future developments and proposes a financing model of ad-hoc development (“as new Member States enter the scheme, new funds will be available and new features will be added to the system”) that has a number of flaws:

- There is no clear visibility on the needed developments and the corresponding budget
- The number of MS willing to participate and the type of involvement is uncertain. Since the pilot project was only meant to serve the European Order for Payment process and there doesn't seem to be a direct National interest, the implication of the MS is not sure. Furthermore, certain MS have declared a lack of interest in deploying an electronic solution for the EOFP procedure whatsoever.

In any case, we need to keep in mind certain clear advantages of the pilot project such as:

- The specifications for the exchanged XML messages have already been done and can be re-used
- Existing code is almost free of errors and debugged
- System is based on open standards and architecture

### 7.3.4 Conditions for benefits

The total cost of ownership of a system based on the expansion of the pilot project would be significantly higher than that of Alternative C and under normal circumstances would not be recommended. There are two factors however that can change the data:

- Part of the functionality already exists in a functional and tested form in the pilot project. The owners of the project are willing to offer it license-free on condition that future functionalities will be developed by contributing partners and re-integrated in the pilot
- Member States might find an interest in deploying National infrastructures if these could also be re-used in a National Order for Payment systems.

The factors mentioned above influence the picture of a European Order for Payment system in an unpredictable way. The study proposes two guidelines that will use these factors to improve the situation with regard to the Alternatives A, B, C that are the standard and straightforward solutions proposed so far:

- If the pilot project is willing to offer software in return for other software, they can do this also for a system based on Alternative C (i.e. for a system that is not based on the distributed model of the pilot project). To do this, they only need to develop a thin-client (browser-based) version of the pilot functionality, which doesn't seem to be a complicated task taking into account the existence of the current framework.
- If Member States are involved in the development of a system such as the (fully functional) pilot, it will certainly be because they will be interested in re-using the functionality for National purposes. In that case, they will probably be willing to undertake the deployment of the infrastructure that is required at the National level.

## 7.4 Recommendation

All the solutions presented are valid, cost efficient and present advantages. The minimum involvement is Alternative A, but to the extent that the Community is willing to support eGovernment in Member States, the two other alternatives are also good choices.

Alternative A can be implemented within 9-12 months from project start. In parallel development, the functionality of Alternative B can also be developed just slightly extending this duration (especially if ECAS can be available). Alternative C will require around 12 months for the full deployment (with larger development teams)

Alternative C is recommended by the study, as the one that covers most requirements and mitigates most risks in the best possible way.

Subject to negotiations, commercial agreements and intellectual property rights, the pilot project could substantially improve the above recommendation if the steps below are followed:

- Pilot project develops a thin-client version and makes it available as back-office functionality in Alternative C
- Community develops interoperability infrastructure of ESB (part of Alternative C) and make it available for newly developed and existing National OfP systems.
- Community (with the help perhaps of MS partners) develop front-office functionality of Alternative C and make it available to pilot project and Member States.
- If interested, Member States set-up national infrastructures and re-use the software developed so far in order to obtain National order for payment systems. Pilot project could help in that respect.

### 7.4.1 Risks

All major risks of the project can be mitigated (or accepted) by the proper set-up of the proposed alternatives. For a full list of Risks and mitigating measures the reader is encouraged to consult [REF12]