

ROADMAP

Title of the proposal: **Regulation on a European system for the attachment of bank accounts**
Type of initiative (CWP/Catalogue/Comitology): CWP
Lead DG/contact person: DG JLS/E2
Expected date of adoption of the proposal: 4th quarter 2010
Date of modification:
Version No:

Initial IA screening & planning of further work

A. Context and problem definition

What is the political context of the initiative? How does the initiative relate to past and possible future initiatives and to other EU policies?

Following two Green Papers on the attachment of bank accounts and on the transparency of the debtor's assets the Commission intends now to elaborate a global strategy for making enforcement abroad as easy as in a domestic context. In the European Judicial Area, business (especially SMEs) and citizens need to recover their debts. Particularly in the current situation where access to capital and credit is limited, a rapid enforcement of claims can be essential for the survival of a business or households. Thus there is a need to improve cross border debt collection. In line with the objective laid down by the TFEU, Article 67 to establish progressively an area of freedom, security and justice, the Commission has set out priorities for the next five years in its Communication of June 2009 – that was adopted by the Council of the EU in December 2009 as the 'Stockholm Programme'.¹ The objective is to provide the best possible service to the citizen. Priority should be given to mechanisms that facilitate people's access to the courts, so that they can enforce their rights throughout the Union. Further, the European judicial area should serve to support economic activity in the single market, particularly in a period of crisis. Provisional and protective measures must be available to speed up procedures and ensure that legal decisions are enforced more effectively

What are the main problems identified?

A creditor seeking to recover a monetary claim will [most] commonly try to so by obtaining an attachment of his debtor's bank account(s). But while debtors are today able to move their monies out of accounts known to their creditors into other accounts in the same or another Member State almost instantaneously, creditors are currently not able to block these monies with the same swiftness. In addition, the creditor has to face varying degrees of efficiency and efficacy of the recovery of monetary claims in other Member States. The situation is aggravated where a creditor wants to arrest funds lying to his debtor's credit in bank accounts situated in several Member States. The problems of cross-border debt recovery outlined above constitute an obstacle to the free circulation of monetary payment orders within the European Union and an impediment for the proper functioning of the Internal Market. The differences in the efficiency of debt-recovery within the European Union also risk to distort competition between businesses operating in Member States with efficient systems of enforcing monetary payment orders and those operating in Member States where this is not the case.

¹ Communication from the Commission to the European Parliament and the Council 'An area of freedom, security and justice serving the citizen', COM (2009) 262 final of 10.06.2009

Who is affected?

Target groups of people likely to be affected by such proposal are: businesses –particularly SMEs- consumers, banks, courts, bailiffs and enforcement agents, law firms

Is EU action justified on grounds of subsidiarity? Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? As a result of this, can objectives be better achieved by action by the Community?

These aspects are subject to the IA study that is being conducted by DG JLS (final report expected in July 2010)

B. Objectives of EU initiative

What are the main policy objectives?

The general objective of this initiative will be to simplify matters for creditors involved in a cross-border dispute and to secure the effective enforcement of their claims abroad.

A specific objective is to create the ways and means of removing the administrative and practical obstacles facing creditors wishing to have their claims enforced abroad through an attachment of the bank accounts of the debtor.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

The objectives imply to complete the European Area of Justice and strengthen judicial cooperation in civil and commercial at the ultimate stage of enforcement of judgements

C. Options

What are the policy options? What legislative or "soft-law" instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

- a) Maintaining the Status quo
- b) Amendment of Regulation Brussels I
- c) Creation of a European system for the attachment of bank accounts. Several policy options exist as to the circumstances in which such a measure would be available, the amounts it would cover and the way it would be enforced

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Other EU policies may be concerned by this initiative as follows: financial institutions, enterprise policy, consumer protection, collective redress. Therefore representatives of the relevant COM departments will participate to the IA steering Committee

Explain how the options respect the proportionality principle

These aspects are subject to the IA study that is being conducted by DG JLS (final report expected in July 2010)

D. Initial assessment of impacts

What are the impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

Policy option b) is likely to have some impact (positive or negative) on all the actors in the field: creditors, debtors, banks and enforcement agencies. All of these impacts warrant further analysis. In particular, the question of the quantitative dimension of the problem outlined above and the economic benefits to be expected from the measure will need to be analysed. The Commission has launched an impact assessment study in March 2010 (final report expected in July 2010)

E. Planning of further impact assessment work

When will the impact assessment work start?

It has started in March 2010.

What information and data is already available? Will this impact assessment build on already existing impact assessment work or evaluations carried out? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

A “Study on making more efficient the enforcement of judicial decisions within the European Union”, undertaken by Prof Burkhard Hess and a team of academics², was published in December 2003. In April 2003, the Commission held a first meeting of government experts which discussed possibilities to improve the attachment of bank accounts in Europe. The results and policy recommendations of the study were discussed in a further meeting of experts convened in February 2004. During the preparation of the Green Paper, a number of key stakeholders were consulted.

After the publication of the Green Paper in October 2006, the Commission received 60 contributions. In 2007 the replies and a summary have been published on the Europa website. Following the resolution of the EP and the EESC opinion on these issues, a call for IA has been prepared in 2009.

Which stakeholders & experts will be consulted, how and at what stage?

The Commission will also hold a public hearing in June 2010. The following stakeholders will be consulted: businesses –particularly SMEs- consumers, banks, courts, bailiffs and enforcement agents, law firms

² Study No. JAI/A3/2002/02.