

Thesis Abstract

The main topic of this thesis is the European order for payment procedure, which was adopted by the Regulation No. 1896/2006 of the European Parliament and of the Council (ES) creating a European order for payment procedure, adopted on 12 December 2006. This thesis describes events preceding the adoption of the Regulation, the procedure of adoption of the Regulation, as well as, development of the content of individual provisions of the Regulation and the content of the actual adopted and binding Regulation.

In this thesis, the European order for payment procedure is also compared with national orders for payment procedures in the Czech Republic, France and Germany. The selection of these three countries was not unintentional. The Czech Republic was chosen because the thesis was written in the Czech language, in the Czech Republic and shall also be published in the Czech Republic, therefore the author believes the majority of potential readers know the Czech order for payment better than any other order for payment procedure. This aspect was also the main reason why the Czech order for payment is described at the beginning of this thesis. The German and French orders for payment procedures were chosen because the European Commission claims the French „injonction de payer“ and the German „Mahnverfahren“ were the two most significant sources of inspiration for the European order for payment procedure.

The first chapter focuses on the concept of the order for payment in general. This Chapter also includes a description of the actual statutory provisions concerning the order for payment in the Czech Republic; including a description of the new electronic order for payment and of the special order for payment based on a bill of exchange or

on a cheque.

Chapter 2 contains a summary of the most significant events preceding the legislative initiative leading to enactment of the Regulation. These events include a recommendation of the Council of Europe, the so-called Storme Proposal, an extension of the Treaty establishing the European Community by the possibility to adopt measures in the field of judicial cooperation in civil matters. The Chapter is also aimed at the conclusions of the European Council in Tampere 1999 as regards the European order for payment, as well as the joint programme of the Commission and the Council of measures for implementation of the principle of mutual recognition of decisions in civil and commercial matters.

Chapter 3 concerns individual stages of the legislative procedure. At the beginning, there is the summary of the stages of the common procedure according to Article 251 of the Treaty establishing the European Community in this particular case. The other parts include the green paper of the Commission, which opened the general discussion regarding, among others, the European order for payment procedure, the first proposal of the Regulation, the opinion of the European Parliament and the statement of the European Economic and Social Committee, as well as the common position of the Council and the statement of the Commission to this common position of the Council.

Chapter 4 generally describes the content of the Regulation. It includes a section concerning the general position of the Regulation as a part of the establishment of an area of freedom, security and justice, a definition of the concept of the uncontested claim, a general approach to enforcement of uncontested claims in individual member states and desirable features of the proposed European order for payment procedure in relation to the key European union principles of subsidiarity and proportionality.

Chapter 5 is the most extensive and most important chapter of this thesis, and amounts to approximately one third of the content of this thesis. The chapter is aimed at in-

dividual features of the order for payment procedure and of the European order for payment itself. The chapter analyses the possible solutions as regards the model of the order for payment and compares the approach of the Commission, the European Parliament, the Council and the European Economic and Social Committee with actual adopted text of the Regulation. These features range from the basic concept of the order for payment procedure, including applicability of the European order for payment procedure in cross-border cases, the determination of the appropriate court, the obligation to provide evidence and requirements regarding delivery of payment order to the requirements for the opposition and possibility to ask for a review in exceptional cases.

Chapter 6 concludes the part about the European order for payment procedure and describes the national regulation in the Czech Republic, France and Germany relating to the European order for payment procedure. This chapter also reveals the differences of the European order for payment procedure among the states; these may arise even in the European order for payment procedure, unified by the European regulation.

Chapter 7 includes description of the national French order for payment procedure. The structure of the chapter is similar to the structure of chapters describing features of the Czech and European orders for payment procedures. It includes description of the basic features, the area of possible application of the order for payment procedure, the method of determination of the respective court, anticipated steps and key elements of the procedure, including submission of the proposal, issue of the order for payment and results of the eventual opposition and other consequences.

The structure of chapter 8 is very similar to chapter 7. It concerns the similar features of the order for payment procedure in Germany. The main difference is, while the French order for payment procedure requires satisfactory evidence and the court issues only one decision, the German order for payment procedure does not require any evidence

and the court issues two decisions. In this context, the comparison of the Czech, French and German order for payment procedure is very interesting, because each of them is regulated by different principles.

Key words: *European order for payment, Czech order for payment, French order for payment, German order for payment*