



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 166/12

Luxembourg, 13 December 2012

Judgment in Case C-215/11

Iwona Szyrocka v SiGer Technologie GmbH

EU law governs exhaustively the requirements to be met by an application for a European order for payment

The creditor must be able to claim all the interest accrued up to the date of payment of the principal claim

In order to simplify, speed up and reduce the costs of litigation in cross-border cases concerning uncontested pecuniary claims, Regulation No 1896/2006¹ introduced a European order for payment procedure. It establishes, inter alia, the information that must appear on a European order for payment application, including the amount of the claim. The form to be used for the issue of a European order for payment is annexed to the Regulation (Annex V).

The Polish Code of Civil Procedure provides that, in cases relating to property law, so as to enable the fee for issuing the application to be calculated, the application must state the value of the subject-matter of the dispute, unless that consists of a fixed sum of money. In the absence of that information, the applicant is requested to rectify the application, complete it or pay for it within one week.

In 2011, Mrs Szyrocka, who is resident in Poland, applied to a Polish court for a European order for payment to be issued against SiGer Technologie GmbH, established in Germany. However, that application did not comply with certain formal requirements laid down by Polish law, in particular the requirement to specify the value of the subject-matter of the dispute, expressed in Polish currency, the principal amount of the claim being stated in euros. Moreover, Mrs Szyrocka claimed interest from a specified date until the date of payment of the principal claim.

The Sąd Okręgowy we Wrocławiu (Regional Court, Wrocław, Poland) has referred questions to the Court of Justice concerning the interpretation of the regulation.

The Court points out that although the regulation neither replaces nor harmonises existing domestic mechanisms for the recovery of uncontested claims, it is intended to establish a uniform instrument for the recovery of such claims. That objective would be undermined if the Member States were able to impose in their national legislation additional requirements to be met by an application for a European order for payment. Such requirements would lead not only to the imposition of different conditions in the various Member States for such an application but also to an increase in the complexity, duration and costs of the European order for payment procedure. The Court infers from this that the regulation establishes exhaustively the requirements to be met by an application for a European order for payment.

The Court goes on to consider whether the national country may, in circumstances such as those in the main proceedings, require the applicant to complete the application for a European payment order by indicating the value of the subject-matter of the dispute expressed in Polish currency, in order to enable the fee for issuing the application to be calculated. The Court observes that, in the absence of harmonisation of domestic mechanisms for the recovery of uncontested claims, the procedural rules for determining the amount of the court fees is a matter for the legal order of each

¹ Regulation (EC) NO 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure (OJ 2006 L 399, p. 1).

Member State. The national court is therefore free to determine the amount of the court fees in accordance with domestic law, provided that the rules laid down by domestic law are no less favourable than those governing similar domestic actions and do not prevent the exercise of rights conferred by EU law.

Furthermore, as regards whether the applicant is entitled to claim interest accrued up to the date of payment of the principal, the Court has decided that the regulation does not preclude such a claim. The Court points out in that regard that any other interpretation would fail to meet the objective of the regulation, as it may increase the duration and complexity of the European order for payment procedure, add to the costs of such litigation and deter the claimant from initiating such a procedure, encouraging him, instead, to have recourse to national procedures under which it will be possible to obtain all the interest to which he is entitled. The Court also points out that any question pertaining to substantive law, including the question as to the kind of interest that may be claimed under that procedure, is, in principle, governed by the law applicable to the legal relationship giving rise to the claim in question.

Lastly, the Court examines how the national court is to complete the European order for payment form, which does not expressly state that it is possible to indicate that the debtor is required to pay to the claimant the interest accrued up to the date of payment of the principal. The Court considers that, in circumstances such as those in the main proceedings, the content of the form must be adapted to the particular circumstances of the individual case, so as to enable the court to take such a decision. Thus, when the debtor is ordered to pay the interest accrued up to the date of payment of the principal, the national court may determine the way in which that form is to be completed in practice, provided that the form thus completed enables the debtor to be fully aware of the decision that he is required to pay the interest accrued up to the date of payment of the principal and to identify clearly the rate of interest and the date from which that interest is claimed.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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