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Improving the efficiency of the enforcement of judgements in the EU: attachment of bank accounts

European Parliament resolution of 25 October 2007 on the Green Paper on improving the efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts (2007/2026(INI))

The European Parliament,

- having regard to the Green Paper on improving the efficiency of the enforcement of judgments in the European Union: the attachment of bank accounts (COM(2006)0618),
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Economic and Monetary Affairs (A6-0371/2007),
- A. whereas the cashless transfer system and cross-border payments have made significant headway and, in view of the SEPA (Single Euro Payment Area) project, are destined to spread more widely,
- B. whereas almost all Member States have arrangements for enforcing attachment measures, but the differing legal systems and procedural requirements mean that these are enforceable throughout the EU only by complicated, protracted procedures, enabling debtors to transfer their money to foreign accounts,
- C. whereas a single European procedure for cross-border cases would benefit those who litigate in many countries and the banking institutions that will receive orders from several Member States,
- D. whereas a creditor has to be able to counter the possibility that his debtor might rapidly and perhaps repeatedly transfer money to foreign accounts,
1. Welcomes the fact that, by publishing the Green Paper, the Commission has taken an initiative aimed at establishing a cross-border European procedure for temporarily freezing bank deposits;
 2. Suggests that, when further studies are conducted, statistics should also be compiled with a view to gauging the real extent of those instances in which debtors thwart the enforcement measures taken against them, and hence to giving a more accurate indication of the expediency of the measures proposed;
 3. Advocates the introduction of a standard European system existing independently of, and in addition to, the Member States' respective national enforcement rules;
 4. Considers that such a coherent and easy-to-use autonomous European procedure for attachment of bank accounts, subject to strong procedural safeguards, is preferable to harmonisation of Member States' legislation;
 5. Maintains that the above procedure should apply only to cross-border cases;

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6. Maintains that regulation should be confined to attachment of accounts and the temporary freezing of bank deposits, and that it should under no circumstances extend to satisfaction of the creditor;
7. Is of the opinion that a legal basis for such a procedure might be found in Article 65, point (c), of the EC Treaty;
8. Points out that a procedure of the type concerned must be capable of being initiated before the main proceedings begin;
9. Points out that what is involved is merely a summary procedure requiring the creditor to furnish credible evidence of the merits of his claim and to demonstrate that his case is urgent and that his rights are in jeopardy;
10. Is of the opinion that orders should direct that accounts be frozen, not that funds be transferred, pending a subsequent court order from the Member State where the account is held, which should also resolve any issue of priority of claims; considers that assets in excess of the amount of the monetary claim, including costs, should not be frozen;
11. Is of the opinion that a statement of the grounds for an order is necessary, such as a risk of dissipation of assets; points out that there should be safeguards to prevent orders from covering more accounts than is necessary;
12. Believes that a careful balance needs to be struck between the rights of creditors to recover debts and the provision of adequate protection for defendants;
13. Believes that, where a creditor has had a bank account attached without good reason, it might be appropriate for him to be made liable for the resulting damage to the debtor;
14. Considers that sufficient information to identify an account must be given, even if this means that banks, exercising due circumspection, have to conduct searches in respect of names and addresses;
15. Considers it appropriate to examine the question of reimbursing the costs incurred by banks in processing account seizures;
16. Believes that the creditor should be obliged to institute the main proceedings within a fixed time-limit;
17. Is of the opinion that an extension in the case of legal proceedings which have not yet been finally concluded should nevertheless be permissible, provided the proceedings are being conducted with due diligence;
18. Is of the opinion that attachment of bank accounts needs to be subject to a quantitative limit in order to prevent too much money from being frozen for the benefit of the creditor and to protect the debtor;
19. Emphasises, in particular, the need to protect the debtor to the extent that unjustified damage to his reputation must be avoided and he must be guaranteed the wherewithal on which to subsist;
20. Believes that, to protect the debtor and prevent abuse by the creditor, for as long as no unappealable enforceable title has been established, the creditor should be required to provide security, the amount of which should be based on the sum to be frozen;

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21. Is opposed to a standard EU-wide attachment exemption level and believes that it should be up to the debtor to invoke the respective national limit governing non-attachable amounts;
22. Believes that a debtor should be entitled to appeal and allowed to end the attachment by providing security; considers, in particular, that, in the event of opposition to or an application for annulment of the attachment order, the respondent must not be placed in a worse position as regards the principles underlying the procedure and the duration of the procedure;
23. Is of the opinion that trust accounts need to be specially protected against attachment; considers that attachment of joint accounts should be possible subject to appropriate guarantees and safeguards with respect to the rights of third parties other than the debtor;
24. Maintains, as regards the service of attachment orders, that uniform standards need to be laid down within the EU to govern communication between courts and banks (for example by using standard forms);
25. Is of the opinion that attachment orders should be transmitted by means that guarantee service upon the bank by the first day after transmission and processed within 24 hours of identification of the account; believes that the bank should be required formally to notify the enforcement authority and the creditor as to whether the amount liable has been secured; believes that the bank should also be required formally to notify the debtor when the attachment order becomes effective; considers that it would be desirable for standardised formal notices to be available in all official languages of the European Union, thereby eliminating or reducing the need for customised translations;
26. Considers that the legal act required for the above purposes might need to take the form of a regulation;
27. Calls on the Commission, before it submits any proposal, to clear up the — in some cases thorny — unresolved issues by conducting detailed, wide-ranging studies, and in particular to carry out a legislative impact assessment;
28. Instructs its President to forward this resolution to the Council and the Commission.

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European Ombudsman's activities in 2006

European Parliament resolution of 25 October 2007 on the annual report on the European Ombudsman's activities in 2006 (2007/2131(INI))

The European Parliament,

- having regard to the annual report on the European Ombudsman's activities in 2006,
- having regard to Articles 195, 230 and 232 of the EC Treaty,
- having regard to Article 43 of the Charter of Fundamental Rights of the European Union,
- having regard to Decision 94/262/ECSC, EC, Euratom of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties ⁽¹⁾,

⁽¹⁾ OJ L 113, 4.5.1994, p. 15. Decision as amended by Decision 2002/262/EC, ECSC, Euratom (OJ L 92, 9.4.2002, p. 13).