

Cross-border debt recovery

The European Parliament and the Council makes it simpler!

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European businesses consider the European Union as a potential market for doing cross-border commercial transactions. This is due to the EU market size, the single market rules which result in less compliance costs and the absence of cross-border bureaucracy.

Notwithstanding the benefits, not all is rosy to conduct cross-border commercial transactions in the EU. Stark differences in culture, language and customers' atti-

tudes and preferences may still exist, hence, hindering cross-border trade. But one of the biggest concerns of businesses is to recover cross-border debt from their respective customers.

Given that 99% of businesses in the EU are small and medium-sized enterprises (SMEs), recovering cross-border debts may be difficult, cumbersome and expensive for them, especially if they have to pursue lawsuits in other countries.

Very often, instituting a law suit in another country may require the supplier to provide translated documents of evidence of debt and to hire a local lawyer in order to seek legal assistance as applicable to the foreign law, which may differ from that of the supplier, and also to comply with the court procedures of the country foreign to the supplier. And this does not necessarily mean that the trade creditor will eventually get hold of his money.

The European Commission claims that around one million

small businesses are still finding it difficult to recover their cross-border debts. The amount of these debts reaches €600 million which businesses are writing off and hence lost every year.

To make life simpler and easier for European businesses and entrepreneurs, the European Commission proposed The European Account Preservation Order, which the European Parliament endorsed and voted in favour in Strasbourg on 15 April 2014. This proposal was backed by 597 votes for, 33 against and 37 abstentions.

Following this vote, the European Parliament and the Council of the European Union signed The European Account Preservation Order into law on Thursday, 15th May 2014.

The European Account Preservation Order is an European procedure that will assist trade creditors recover millions in cross-border debts. By this procedure, trade creditors will be allowed to uphold the amount owed in a debtor's

bank account under the same conditions in all Members States, except in the UK and Denmark.

The trade creditor still has to obtain a judgement in accordance with the national law or by using simplified European procedures, such as the European Small Claims Procedure, in order to actually get hold of the money. However, the new European Account Preservation Order should help the trade creditors recovering their cross-border debts more securely, since the Preservation Order will prevent debtors from withdrawing or dissipating their assets while procedures to obtain and enforce judgement are still underway.

In the absence of the Vice-President Viviane Reding, EU Commissioner responsible for Justice, Johannes Hahn, said that this is an important measure for businesses and entrepreneurs in Europe. He reiterated that This Preservation Order will help millions of SMEs save time and money, with an easy

procedure in place to quickly recover outstanding debts across borders. Mr Hahn also described this Order "as a good example of how justice policies can stimulate growth. By removing bureaucratic obstacles, extra costs and the legal uncertainty, the EU's single market will become more attractive."

MACM, the Association providing a central national organisation for the promotion and protection of all credit interests pertaining to Maltese businesses, welcomes wholeheartedly this Procedural Order and awaits for its applicability in Malta and all the other Members States after its publication in the Official Journal – the EU's Statute book, which is expected to happen in June 2014.

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