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 L 399 of 30.12.2006

DG JUST A1

European Commission

Living in an area of freedom, security and justice

Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

Purpose

- **Simplify**, **speed up** and **reduce costs** of cross-border litigation concerning uncontested pecuniary claims
- Permit **free circulation** of EPOs throughout MS

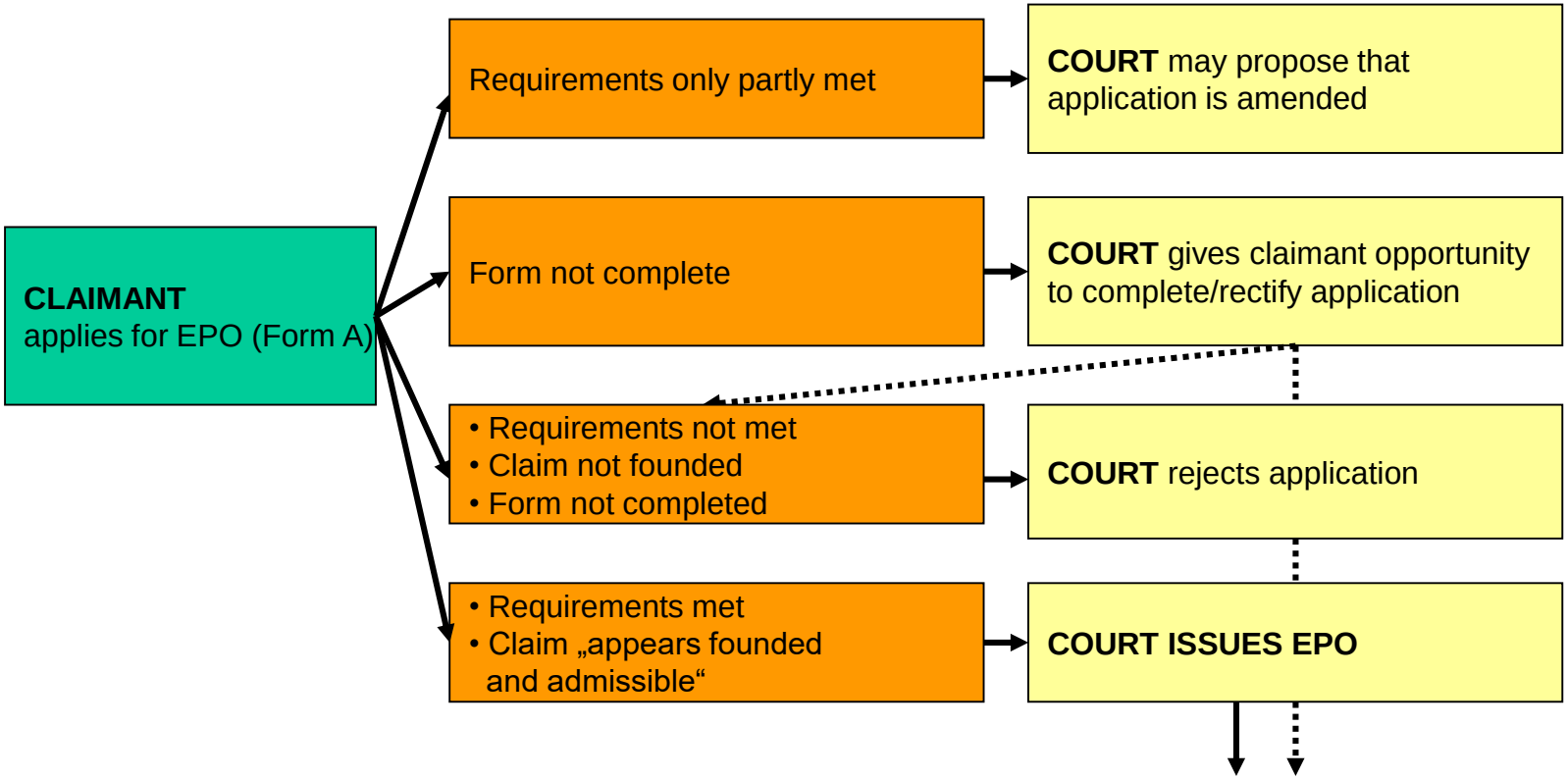
Optional procedure: Claimant can also pursue claim by using another national procedure

Scope of Application

- Civil and commercial matters in cross-border cases
- “Cross-border case“: At least one of the parties domiciled or habitually resident in MS other than MS of court
- Regulation applies to all MS except Denmark

Regulation does not apply to revenue, customs or administrative matters or the liability of the State for acts and omissions in the exercise of State authority ("acta iure imperii"); matrimonial property regimes; bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings; social security; claims arising from **non-contractual obligations**, unless they have been the subject of an agreement between the parties or there has been an admission of debt or they relate to liquidated debts arising from joint ownership of property.

EPO Application



Further procedure

EPO
served on defendant

Defendant:
Statement of opposition (30 days)

→ **Ordinary civil procedure**
(Unless claimant has requested termination)

Defendant:
No Statement of opposition
(30 days)

→ **COURT** declares EPO enforceable
(Form G)

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Applying for a EPO

- **Form A:**
  - Names and addresses of the parties and their representatives
  - Name and address of the court
  - Amount of claim
  - Cause of the action, including a description of circumstances invoked
  - Description of evidence supporting claim
  - Cross-border nature of the case

- Submission: In **paper form** or by **any other means of communication** (including electronic ones) accepted by MS

- **Pecuniary claim**: Must be for **specific amount that has fallen due** at time when application is submitted

- **Jurisdiction:** Regulation (EC) No 44/2001. However, if claim relates to contract concluded by consumer, and if defendant is the consumer: Only courts of MS of domicile of defendant have jurisdiction

Examination of an application

- Court **examines** as soon as possible (also through **automated procedure**):
  - **Requirements met** (e.g. cross-border nature of case, jurisdiction of court, application form complete, etc.) ?
  - **Claim** “appears to be **founded** and **admissible**” ?

- If application **form** is **not complete**:
  Court gives claimant opportunity to complete/rectify application, unless claim is clearly unfounded or application inadmissible. => Form B

- If requirements are met for **only part of claim**:
  Court may **propose** that application be **amended**. => Form C. Claimant is asked to accept or refuse proposed EPO for amount specified by court.
  => Claimant accepts : Court issues EPO for part of claim accepted by claimant. Remaining part: national law.
  => Claimant does not reply or refuses: Court rejects application.

Rejection of an application

- Court **rejects** application if it:
  - Does not meet the necessary **conditions**;
  - Is **not founded**;
  - Applicant does **not return** completed or modified application in time;
  - Applicants does **not reply** within time limit, or refuses the court's proposed amendment.

- Court **informs** applicant of reasons for rejection: => Form D (Annex IV). No right of appeal. However, rejection does not prevent claimant from pursuing claim through new application for EPO or using any other procedure available under national law

Issuing a European order for payment

- If conditions for EPO are met: Court **issues** order as soon as possible (normally within 30 days of lodging application) => Form E

- EPO **informs** defendant: May either pay amount of claim, or contest EPO. To contest, defendant must lodge a statement of opposition (within 30 days of service of EPO).

- EPO is issued solely on **basis of information provided by claimant** and not verified by court. EPO becomes enforceable, unless defendant lodges statement of opposition.

- Regulation **abolishes exequatur**: EPO recognised/enforced in other MS
  - without need for declaration of enforceability and
  - without any possibility of opposing recognition.

Service of a EPO

- EPO **served** on defendant in accordance with national law. But Regulation sets out minimum procedural standards regarding service either with proof of receipt by defendant (Article 13) or without (Article 14).
- Service **with proof of receipt**: personal, postal or service by electronic means
- Service **without proof of receipt**: personal (on person in same household or on employee at business premise), deposit in mailbox or at post office or with competent public authorities, by electronic means.
- **Defendant's address** must be known with certainty. Service may also be effected on a defendant's representative.

Opposition to a EPO

Defendant may lodge **statement of opposition** with court that issued EPO within 30 days of service: => Form F. Defendant indicates in statement that claim is contested, without having to specify reasons

=> Proceedings continue before competent courts of MS of origin in accordance with **rules of ordinary civil procedure** (unless claimant has requested that proceedings be terminated in that event)

Review of the European order for payment

Defendant can **apply for review** of EPO after 30-day time limit for statement of opposition, if:

- EPO was **served without acknowledgement of receipt** by defendant (Article 14), and service was not effected in time to prepare a defence;
- Defendant **could not object** to claim (e.g. force majeure);
- EPO was **wrongly issued**.

• Court **rejects** defendant's application: EPO remains in force.

• Court decides that there is a **case for a review**: EPO becomes null and void.

Enforcement is also refused by competent court in MS of enforcement if EPO is irreconcilable with an earlier decision in any MS or third country.

More information

Information communicated by MS

- concerning courts having jurisdiction to issue a EPO, review procedures, means of communication, languages accepted

- has been published in the *European Judicial Atlas in Civil Matters*:

http://ec.europa.eu/justice_home/judicialatlascivil/html/epo_information_en.htm

COM report on the application of Regulation (EC) 1896/2006

13.10.2015, COM(2015) 495 final:

https://ec.europa.eu/transparency/regdoc/rep/1/2015/EN/1-2015-495-EN-F1-1.PDF