European Enforcement Order

Regulation (EC) No 805/2004 of 21 April 2004 creating a European Enforcement Order for uncontested claims

OJ L 143 , 30.4.2004, p. 15

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

European Enforcement Order (I)

Background

- Context: **Programme of mutual recognition**
- Main objective of programme: **Abolition of exequatur**
- EEO abolishes exequatur for judgments on **uncontested** claims

European Enforcement Order (II)

Mechanism

• Exequatur is abolished for judgments on **uncontested claims** in proceedings that comply with certain **minimum standards**

• Such judgments can be **certified** as EEO by a court of the **MS of origin** of the judgment

• **Effect** of EEO: Judgments are recognised and enforced
- without need for declaration of enforceability and
- without possibility of opposing recognition

European Enforcement Order (III)

Relationship with Regulation 44/2001

• EEO: **Alternative option** for enforcement abroad (Regulation 1215/2012 applies to **all judgments,** both on contested and on uncontested claims).

• **Advantages** of EEO:
- Judgment considered **equivalent** to judgment rendered in requested MS
- **No** need for **additional approval** by courts of requested MS
- Enforcement **cheaper and faster**

European Enforcement Order (IV)

Scope

- **Civil and commercial** matters

- **Claims for payment of a specific sum of money** that have fallen due or for which the due date is indicated in the judgment

- Not only court **judgments**, but also **court settlements** and **authentic instruments**

European Enforcement Order (V)

Uncontested claim

- Defendant has **expressly agreed** to claim (in court proceedings, settlement or authentic instrument)

- Defendant has **never objected** to claim in course of court proceedings

- Defendant has **not appeared** or been represented at **court hearing** regarding claim

European Enforcement Order (VI)

General requirements for certification

- Judgment must be **enforceable** in MS in which it was issued

- Judgment must **not conflict** with certain jurisdiction rules of Regulation 1215/2012
- In **consumer matters**, judgment must have been issued by a court of the MS where defendant is domiciled.

European Enforcement Order (VII)

Minimum standards

Minimum standards to ensure that rights of defence are respected concern:

• Rules on **service of documents** on debtor

• Provision to the debtor of **due information** about
- the claim,
- the procedural steps necessary to contest the claim
- the consequences of an absence of objection

European Enforcement Order (VIII)

Verification of minimum standards

- The **court that issues the EEO certificate** verifies that minimum standards have been complied with **This act could be carried out only by the judge**

- EEO is issued by court of MS **in which judgment has been delivered** (either court that rendered the judgment or another court declared competent for that purpose)

European Enforcement Order (IX)

What if the minimum standards are not respected ?

Non-compliance with minimum standards can be cured if:

• Documents were **served** on defendant in accordance with rules of Regulation (or if he received documents personally in sufficient time as to arrange for his defence)

• Defendant had **possibility to challenge the judgment** and was **informed** about respective procedural requirements

• Defendant **failed to challenge** the judgement

European Enforcement Order (X)

Is any review by the requested MS with respect to the foreign judgment possible?

No review by courts of requested MS, in particular not as to substance of foreign judgment or compliance with minimum standards

European Enforcement Order (XI)

Standard forms

Standard forms annexed to Regulation:

• Forms for court issuing EEO certificate for judgments, court settlements, and authentic instruments

• Certificate of lack or limitation of enforceability of judgment

European Enforcement Order (XII)

Rectification and withdrawal of EEO certificate

- Rectification: Material **error** in certificate (discrepancy between judgment and certificate)

- Withdrawal: Certificate **clearly wrongly granted** (requirements of Regulation not fulfilled)

- **No possibility to lodge appeal** against decision issuing EEO besides rectification and withdrawal

European Enforcement Order (XIII)

Enforcement

- Enforcement procedure not regulated by Regulation, but by **national law**
- Claimant must provide enforcement authorities with authentic copy of **judgment** and of **EEO certificate**
- Enforcement authorities **must not refuse** to enforce the judgment.

  Exception: Judgment irreconcilable with earlier judgment on same cause of action and between same parties, if irreconcilability could not be raised during court proceedings
- Enforcement proceedings may be **limited or stayed** if defendant decides to challenge the judgment or applies for rectification or withdrawal

European Enforcement Order (XIV)

Entry into force and notifications

• The Regulation **applies** as of **21 October 2005**

• MS must **notify** certain information necessary for application of Regulation to the Commission (through e-Justice Portal)**:**
- Procedures for review and for rectification and withdrawal of EEO Certificate,
- Languages accepted for completion of certificate,
- Lists of authorities competent to receive and certify any authentic instrument concerning an uncontested claim