

European enforcement order for uncontested claims

The Regulation creates a European enforcement order for uncontested claims. Thanks to the introduction of minimum standards, the instrument allows the free movement of decisions, out-of-court settlements or authentic instruments concerning uncontested claims in all the Member States. It is no longer necessary to use an intermediate procedure in the Member State of enforcement prior to recognition and enforcement

ACT

European Parliament and Council Regulation of 21 April 2004 creating a European enforcement order for uncontested claims.

SUMMARY

The Regulation creates a European enforcement order for uncontested claims. It lays down minimum standards to ensure that judgments, court settlements and authentic instruments on uncontested claims can circulate freely. This entails the abolition of exequatur, i.e. the automatic recognition and enforcement, without any intermediate proceedings or grounds for refusal of enforcement, of judgments handed down in another Member State.

Scope

The Regulation applies in civil and commercial matters. It does not, in particular, cover revenue, customs or administrative matters. It is applicable in all Member States with the exception of Denmark.

European enforcement order

A judgment on an uncontested claim is certified as a European enforcement order by the Member State of origin in accordance with certain conditions. Certification is carried out by means of the standard form. The certification may apply to only parts of the judgment, in which case the order will be known as "partial European enforcement order".

A judgment that includes an enforceable decision on the amount of costs related to the court proceedings may also be certified with regard to the costs unless the debtor has specifically objected to his obligation to bear such costs. The certificate can also be rectified if there is a discrepancy between the judgement and the certificate, or withdrawn where it was clearly wrongly granted. Nor is there any appeal against the judgment relating to certification. The certificate takes effect only within the limits of the enforceability of the judgment.

Minimum standards

The court proceedings in the Member State of origin must meet certain procedural requirements for a judgment on an uncontested claim to be certified as a European enforcement order.

The Regulation lays down minimum standards with regard to the service of documents (the document instituting proceedings and, where applicable, the summons to a court hearing) to ensure that the rights of the defence are respected. Only the document service methods listed in the Regulation are allowed if the judgment is to be certified as a European enforcement order.

Furthermore, the document instituting proceedings must give details of:

- the claim (personal details of parties, amount of the claim, whether or not interest is incurred and for what period, etc.);
- the procedural arrangements required for contesting the claim (deadline for contesting the claim, consequences of failing to object, etc.).

The Regulation allows non-compliance with these requirements to be remedied, subject to certain conditions. For a judgment to be certified as a European enforcement order, the Member State of origin must provide for review in exceptional cases.

Enforcement

Enforcement procedures are governed by the law of the Member State of enforcement. The creditor must supply the authorities responsible for enforcement in the enforcing Member State with:

- a copy of the judgment;
- a copy of the European enforcement order certificate;
- where necessary, a transcription of the European enforcement order certificate or a translation thereof into the official language of the Member State of enforcement or into another language accepted by the Member State of enforcement.

No security, bond or deposit can be required of creditors on the ground either that they are foreign nationals or are not domiciled or resident in the Member State of enforcement.

The competent court in the enforcing Member State may, subject to certain conditions, refuse to enforce a judgment if it is irreconcilable with an earlier judgment given in any Member State or in a third country. In certain cases, it can also stay or limit enforcement.

Final and general provisions

All the information needed to apply the Regulation will be communicated by the Member States to the Commission, which will publish it. In addition, in order to facilitate access to enforcement procedures and related information, the Member States undertake to provide the general public and professional circles with relevant information within the framework of the [European Judicial Network](#) in civil and commercial matters.

Creditors remain free to seek recognition and enforcement of a judgment under Regulation (EC) No [44/2001](#). Moreover, this Regulation does not prejudice the application of [Regulation \(EC\) No 1348/2000](#).

The Regulation is applicable from 21 October 2005.

Key terms used in the act

- Judgment: any judgment given by a court or tribunal of a Member State, whatever the judgment might be called.
- Claim: a claim for payment of a specific sum of money that has fallen due or for which the due date is indicated in the judgment.
- Uncontested: the debtor has not objected to the claim in the course of court proceedings or has not appeared in court or has expressly agreed that the claim exists and is justified in the course of court proceedings, including by means of a settlement or in an authentic instrument.
- Authentic instrument: a document formally drawn up as an authentic instrument or an arrangement relating to maintenance obligations.
- Member State of origin: the Member State in which the judgment to be certified as a European enforcement order has been given.
- Member State of enforcement: the Member State in which enforcement of the judgment certified as a European enforcement order is sought.

REFERENCES

Act	Entry into force	Deadline for transposition in the Member States	Official Journal
Regulation (EC) No 805/2004 [adoption : codecision COD/2002/0090]	21.01.2005	-	OJ L 143 of 30.04.2004

Further information:

Justice, Freedom and Security Directorate-General of the European Commission:

- [Mutual recognition of judgments in civil and commercial matters](#) - the foundations of the European area of justice

Freedom, Security and Justice of the European Parliament:

- [Thematic factsheet](#)
- [Scoreboard](#)