



Brussels I Regulation and European Civil Procedures

European Commission
DG Justice
Unit A1 – Civil Justice Policy



**Regulation (EC) No 44/2001 of
22 December 2000 on jurisdiction
and the recognition and enforcement
of judgements service in civil and
commercial matters
(known as “Brussels I”)**



Subject matter

The Regulation determines which Member State courts have jurisdiction in a cross-border civil or commercial cases in the European Union

The Regulation determines conditions and procedures following which the judgements issued in a Member States are recognized and enforced in other Member States



Scope of application

Civil and commercial matters

Exceptions:

Revenue, customs or administrative matters

Status or legal capacity of natural persons,

Rights in property arising out of a matrimonial relationship

Wills and successions

Bankruptcy



Jurisdiction

1. General rule: Domicile of the defendant

2. Alternative special rules

Place of performance of contractual obligations

Place where harmful event occurred in action for damages

Domicile of the consumer, insured and employee in certain matters relating to consumer, insurance and employment contracts

3. Exclusive jurisdiction

Ownership or tenancy of immovable property

Registration and validity of patents or trademarks

Exclusive choice of court agreements





Lis pendens

*In proceedings concerning the same dispute and between the same parties are brought in two Member States **Court first seized gets priority**
Court second seized **must** decline jurisdiction once the first court has considered itself competent*





Recognition

No special procedure for recognition and no review of a substance

Refusal only on the basis of

- **Public policy**
- **Default judgment without adequate notice**
- **Judgement irreconcilable with earlier judgment**





Enforcement

Declaration of enforceability (exequatur) requires:
application to competent court
completion of certain formalities
service to the other party which can appeal
against the decision on same grounds as for
refusal of recognition

Enforcement is carried out according to national law





Recast: Regulation 1215/2012

Abolition of exequatur

Extension of the rules of jurisdiction to a defendants domiciled outside of the European Union

Protection the effectiveness of arbitration clauses

Protection of the effectiveness of choice of courts agreements





European Enforcement Order (EEO)

*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*

Only optional instrument





Scope – uncontested claims

Civil and commercial matters as in Brussels I

Uncontested claims:

Settlement or admission;

No-defence or non-appearance – role of national procedural law

Authentic instruments





Abolition of exequatur

Judgement certified in issuing MS – no exequatur

Conditions:

- appropriate service;*
- minimum information on claim and on steps necessary to contest it;*
- possibility to review in exceptional cases*
- possibility to cure non-compliance*





European Order for Payment

Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure

Alternative to national civil procedures
"Hybrid" procedure





Scope

Uncontested pecuniary claims

*Civil and commercial matters as in Brussels I,
minus*

- matrimonial property regimes;*
- claims arising from non-contractual obligations,*





Cross-border cases

"Cross-border case": At least one of the parties domiciled or habitually resident in MS other than MS of court





EOP Procedure

Use of forms mandatory – no lawyer needed
"Electronic ready"

Standards for service as in EEO

Single service upon the defendant of the application and order and opposition form

Statement of opposition – ordinary procedure

Review in exceptional cases

No exequatur





European Small Claims Procedure (ESCP)

*Regulation (EC) No 861/2007 of the European
Parliament and of the Council of 11 July 2007
establishing a European small claims procedure
OJ L 199 of 31.7.2007*

Alternative procedure

"Hybrid" procedure

First "fully fledged" European civil procedure





Scope of ESCP

*Civil and commercial matters as in Brussels I minus
Employment law*

tenancies of real property if not monetary

Privacy rights including defamation

Claims of value up to 2000 €

*Cross-border case: At least one party domiciled or
habitually resident in MS other than MS of seised
court*





Some procedural rules of ESCP

Use of forms

Representation by lawyer not required

No legal assessment of the claim by the parties required

Court fees should not exceed those of similar "domestic" cases

Issues not regulated to be governed by national procedural law





Some procedural rules of ESCP

Written procedure but hearing possible

Use of telecommunication and electronic communication encouraged

"Loser pays" principle controlled by the court

Assistance in filling the forms and information on procedural issues by the courts

Minimum standards for service and review of the judgement (as in EEO and EOP)





No exequatur required

***"Blueprint" for European civil
procedure?***

