

NJORD Latvia: Enforcement of judgments in civil cases and commercial cases in the European Union

It is not unusual for a judgment rendered in one Member State to be enforced in another Member State. Thanks to legislation effective within the territory of the European Union, this process has become clear and understandable, which significantly facilitates enforcement of judgments and reduces the creditor's expenses.

The enforcement of a judgment is mainly governed by the following two Regulations:

- Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) (Brussels Ibis Regulation), replacing Regulation (EC) No. 44/2001 of the European Council of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, and
- Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims (European Enforcement Order Regulation).

Brussels Ibis Regulation

Per the Brussels Ibis Regulation, a judgment given in a Member State which is enforceable in that Member State shall be enforceable in the other Member States without any declaration of enforceability being required. The court, which rendered a judgment, shall, at the request of any interested party (plaintiff), issue the certificate, which shall be standardised in all Member States.

Therefore, to enforce a judgment rendered in one Member State in another Member State of the European Union, the plaintiff must submit to the competent enforcement authority (in Latvia – to the bailiff) the following:

- a copy of the judgment;
- the certificate issued under Article 53 of Brussels Ibis Regulation;
- translations of the foregoing documents in the language of the Member State, where the judgment shall be enforced.

Brussels Ibis Regulation applies to all Member States of the European Union. It is applicable to enforcement of a judgment in civil and commercial disputes, except for those related to legal status or legal capacity and capacity to act of natural persons, title to property arising from marital relations, bankruptcy, procedures related to liquidation of insolvent companies or other legal entities, social security, court of arbitration, maintenance obligations arising from family, parental and children's, marital or kinship relations, last wills and inheritance.

European Enforcement Order Regulation

Unlike the Brussels Ibis Regulation, the European Enforcement Order Regulation has a narrower scope of application. In particular, this Regulation refers only to uncontested claims regarding payment of money in a civil matter or a commercial matter. Therefore, the following two prerequisites must be met:

- the claim must be filed concerning a particular amount of money, performance of which has begun already or is indicated in a judgment;
- the claim must be uncontested (a debtor explicitly agreed thereto, the debtor during proceedings has never contested it, the debtor failed to appear or was represented, when adjudicating the claim in the court, although initially the claim was challenged within judicial proceedings, if such action caused admission by default of facts stated in the claim or stated by the creditor in accordance with regulatory enactments of the Member State of origin).

Upon receipt of the respective request from the plaintiff in the court of the Member State of origin, the court shall verify if the prerequisites set forth in the Regulation are met. This means that the court shall verify the manner of delivery of the documents on the initiation of proceedings to the debtor; if the debtor was duly informed of the claim, as well as the appeal against the claim. If the prerequisites are met, the court, by using the respective blank form, shall issue a confirmation of the European enforcement order with respect to the judgment.

Similarly to the Brussels Ibis Regulation – a judgment approved in the Member State of origin under the European enforcement order does not require a declaration of enforceability, and the claimant must submit the following to the competent enforcement authority:

- a copy of the judgment;
- a copy of the approved European enforcement order;
- translations of the foregoing documents in the language of the Member State, where the judgment shall be enforced.

This Regulation is effective in all Member States of the European Union, except for Denmark.



SERGEJS PETROVS
ATTORNEY AT LAW,
PARTNER

(+371) 67 313 315
SP@NJORDLAW.LV