

The European Small Claims Procedure & the European Order for Payment Procedure Seminar

Case Study Analysis on European Small Claims Procedure

29 October 2021

Case Study 1

Anna, an Italian national, residing in Rome ordered 2 handmade scarfs from the online shop belonging to Emma, Irish national domiciled in Lyon. When the scarfs were delivered, Anna realized they do not correspond to the picture in the online shop and are of low quality. Anna decides to file a claim by using form A of the ESCP Regulation before the French court in French seeking the refund of the price paid in the amount of 300 EUR.

Question 1: Does the French court have jurisdiction?

Question 2: Suppose that French court receives form A and establishes that Anna did not correctly fill in part 7 of the form A. What should the French court do?

Question 3: Suppose that, upon being served with answer form C together with a copy of Form A, Emma refuses to receive the documents, indicating that both forms are written in French and that she does not understand it, since she only speaks English. Is Emma allowed to do so?

Question 4: Suppose that, upon being served with answer form C together with a copy of Form A, Emma refuses to receive the documents, indicating that both forms are written in French and that she does not understand it, since she only speaks English. After the court notifies Anna on this, Anna submits e-mail communication with Emma proving that she speaks French actively.

Question 5: Suppose that, upon being receiving forms C and copy of the form A, Emma accepts the documents but simply chooses not to respond. What should the French court do?



Case Study 2

In January 2019, Mia, a Croatian national domiciled in Rijeka, ordered a smart TV from the website of a company Vision, d.o.o. with its domicile in Ljubljana. After the delivery, Mia establishes that the TV does not function properly. The company did not answer to her e-mails so she decided to seek reimbursement of the price paid. She filled in the form A of the ESCP Regulation and submitted it together with evidence supporting the claim before the Slovenian court.

Question 1: Suppose that, upon service of form C together with a copy of Form A, Vision d.o.o. fills out Part II of form C and contends that it already submitted a request for a European order for payment before the Croatian court against Mia, since she did not pay the price in total. What should the Slovenian court do?

Question 2: Suppose that Vision d.o.o. requests that an oral hearing be held. Is the Slovenian court obliged to schedule an oral hearing?

Question 3: Suppose that Slovenian court schedules an oral hearing in Slovenia. Mia requests that an oral hearing be held via video-conferencing tools. Is the Slovenian court obliged to do so?

Question 4: Suppose that Vision d.o.o. is served with the court's standard answer Form C on 8 May 2019. Vision d.o.o. fills in the answer Form C on 26 June 2019 and returns it to the competent court. How will the court proceed after the 30-day period has expired?



Case Study 3

Kathrine, an Irish national living in Dublin went to visit her friends in Larnaca, Cyprus. She booked a room at the hotel Bellevue in Larnaca. When she arrived, she realized that the room does not correspond to description and picture from the website on which she booked it. Kathrin decided to leave without paying and look for an alternative accommodation. Bellevue, the company owning the hotel, decided to institute the proceedings for payment of the price for accommodation under the ESCP Regulation in March 2020.

Question 1: The Cypriot court served Kathrine with the copy of the form A and form C on 20 March 2020. Kathrin decided not to respond and the court rendered a judgment on 29 May 2020. Can the judgment issued in European small claims procedure be enforced in Ireland against Kathrine and how?

Question 2: The Cypriot court served Kathrine with the copy of the form A and form C on 20 March 2020 to her e-mail. Kathrin does not respond and the court renders a judgment on 29 May 2020. Kathrine becomes aware of the e-mail on 3 June. Can Kathrine object to service of the documents by e-mail?

Question 3: Suppose that the Cypriot court served Kathrine with the copy of the form A and form C on 20 March 2020 to her letterbox. Kathrin does not respond and the court renders a judgment on 29 May 2020. Kathrine is released from the hospital on 8 June where she was hospitalised for 3 months due to Covid-19 related complications. What can Kathrine do?

Question 4: Suppose that the Cypriot court served Kathrine with the copy of the form A and form C on 20 March 2020 to her letterbox. Kathrin does not respond and the court renders a judgment on 29 May 2020. Kathrine is released from the hospital on 8 June where she was hospitalised for 3 months due to Covid-19 related complications. The court already issued the form D and the enforcement proceedings were instituted before the Irish court. What are the possible actions the court can take? Can the court stay the enforcement?

