



*Train 2 EN4CE Project is being funded by the
European Union's Justice Programme (2014-2020)*



**UNI
GRAZ**

Theoretical aspects of the European Small Claims Procedure

The European Small Claims Procedure

- Main source of law at European level:

Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007.

- Art 19 ESCP:

Subject to the provisions of this Regulation, the European Small Claims Procedure shall be governed by the **procedural law of the Member State** in which the procedure is conducted.

Aims

- Introduce an efficient and uniform instrument
- Simplify and speed up litigation
- Facilitate access to justice
- Reduce costs
- Obtain recognition and enforcement
- Promote fundamental rights
- Right to a fair trial and the principle of an adversarial process.

Aims

Art 1 ESCP: Subject matter

This Regulation establishes a European procedure for small claims (hereinafter referred to as the 'European Small Claims Procedure'), intended to **simplify and speed up litigation** concerning small claims in cross-border cases, and to **reduce costs**. The European Small Claims Procedure shall be available to litigants as an alternative to the procedures existing under the laws of the Member States.

This Regulation also **eliminates the intermediate proceedings necessary to enable recognition and enforcement**, in other Member States, of judgments given in one Member State in the European Small Claims Procedure.

Characteristics

- The European Small Claims Procedure is an additional, optional instrument.
- Judgment should be recognised and enforceable in another Member State
 - No declaration of enforceability
 - No possibility of opposing its recognition
- Simple way of initiating proceedings: standardized forms
- No requirement to be represented by a lawyer
- Taking of evidence: no formal restrictions
- Swift proceeding

Scope of application

Art 2 ESCP:

This Regulation shall apply, in **cross-border cases** as defined in Article 3, to **civil and commercial matters**, whatever the nature of the court or tribunal, where the **value of a claim does not exceed EUR 5 000** at the time when the claim form is received by the court or tribunal with jurisdiction, excluding all interest, expenses and disbursements.

It shall not extend, in particular, to revenue, customs or administrative matters or to the liability of the State for acts and omissions in the exercise of State authority (*acta jure imperii*).

Scope of application

Civil and commercial matters:

- Autonomous interpretation:
 - ECJ C-29/76, *LTU/Euro Control*
 - ECJ C-172/91, *Sonntag/Waidmann*
 - ECJ C-551/15, *Pula Parking*

Two relevant elements:

- Subject matter & nature of relationship

→ Sum of all private law disputes.

→ In principle no public law matters.

Scope of application

Specified exclusions:

- Art 2 (2) ESCP: This Regulation shall not apply to matters concerning
 - the **status** or **legal capacity** of natural persons;
 - **rights in property** arising out of a **matrimonial relationship** or out of a relationship deemed by the law applicable to such relationship to have comparable effects to marriage;
 - **maintenance obligations** arising from a family relationship, parentage, marriage or affinity;
 - **wills and succession**, including maintenance obligations arising by reason of death;
 - **bankruptcy**, proceedings relating to the winding-up of insolvent companies or other legal persons, **judicial arrangements**, compositions and analogous proceedings;

Scope of application

Specified exclusions:

- Art 2 (2) ESCP: This Regulation shall not apply to matters concerning
 - **social security;**
 - **arbitration;**
 - **employment law;**
 - **tenancies of immovable property**, with the exception of actions on monetary claims; or
 - **violations of privacy** and of rights relating to personality, including defamation.

Scope of application

Admissible types of claims

- No restriction to a certain type of claim
- Which types of claims are admissible?
 - Actions for performance
 - Actions for a declaratory judgment
 - Actions requesting a change of a legal right or status

Scope of application

Value of the claim

- Original version of the Regulation
(EC) No 861/2007: **2.000 €**
- Since entry into force of the Regulation (EU)
2421/2015: **5.000 €**
- Relevant point in time: receipt of the claim by the
competent court.
- Later extension of the claim to more than 5.000 €
 - ESCP can not be continued
 - Exception: exchange rate fluctuations

Scope of application

Calculation of the value of the claim

- The value of the claim must be calculated **excluding interest, expenses and disbursements** at the time of receipt of the claim (Art 2 [1] ESCP).
- The limit of the value of the claim may not be changed by the parties.
- All further questions: national law (Art 19 ESCP)

Scope of application

Effect of a counterclaim on the value of the claim

- **Counterclaim** = action brought by the defendant in the same proceedings against the claimant.
- **Main rule:** claim and counterclaim are separate claims for purpose of valuation
- **Counterclaim exceeds limit of 5.000 €:** Art 5 (7) ESCP
 - Claim and counterclaim shall not proceed in the European Small Claims Procedure
 - National law



Scope of application

Currency Form A:

7.1. Claim for money

7.1.1. Amount of principal (excluding interest and costs):

7.1.2. Currency

<input type="checkbox"/> Euro (EUR)	<input type="checkbox"/> Bulgarian lev (BGN)	<input type="checkbox"/> Croatian kuna (HRK)
<input type="checkbox"/> Czech koruna (CZK)	<input type="checkbox"/> Hungarian forint (HUF)	<input type="checkbox"/> Pound Sterling (GBP)
<input type="checkbox"/> Polish zloty (PLN)	<input type="checkbox"/> Romanian leu (RON)	<input type="checkbox"/> Swedish kronor (SEK)
<input type="checkbox"/> Other (please specify):		

7.2. Other claim:

7.2.1. Please specify what you are claiming:

7.2.2. Estimated value of the claim:

Currency:

<input type="checkbox"/> Euro (EUR)	<input type="checkbox"/> Bulgarian lev (BGN)	<input type="checkbox"/> Croatian kuna (HRK)
<input type="checkbox"/> Czech koruna (CZK)	<input type="checkbox"/> Hungarian forint (HUF)	<input type="checkbox"/> Pound Sterling (GBP)
<input type="checkbox"/> Polish zloty (PLN)	<input type="checkbox"/> Romanian leu (RON)	<input type="checkbox"/> Swedish kronor (SEK)
<input type="checkbox"/> Other (please specify):		

7.3. Are you claiming the costs of proceedings?

7.3.1. Yes

7.3.2. No

7.3.3. If yes, please specify which costs and indicate the amount claimed or incurred so far:

Scope of application

Cross-border cases

Art 3 (1) ESCP:

For the purposes of this Regulation, a cross-border case is one in which at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court or tribunal seised.

Scope of application

Cross-border cases

- Domicile:
 - Art 62 Brussels-Ia-Regulation (natural persons):
 - court shall apply its internal law
 - Art 63 Brussels-Ia-Regulation (legal persons):
 - statutory seat; or
 - central administration; or
 - principal place of business.
- Habitual residence:
 - Where the center of his or her existence has been for at least 6 months (Hague Maintenance Convention)

Scope of application

Cross-border cases – Examples

- Claimant with domicile or habitual residence in a Member State seises the court of another Member State.
- Claimant with domicile or habitual residence in the state of the court brings a claim against the defendant with domicile or habitual residence in another Member State.
- Both parties are domiciled or habitually resident in the same Member State, but the court of another Member State is seised.
- Claimant with domicile or habitual residence in a third country brings a claim in a Member State; the defendant is domiciled or habitually resident in another Member State.

Scope of application

No cross-border cases – Examples

- The domicile or habitual residence of all parties to the proceedings is located in the state of the court.
- The domicile or habitual residence of one party is in the state of the court, of the other party in a third country.
- The domicile or habitual residence none of the parties is located in a Member State.

Scope of application

Consequences of no cross-border case:

- Court shall inform claimant
- Claimant may withdraw claim
- If claimant doesn't withdraw claim:
 - Court seised shall conduct the proceedings in accordance with national procedural law.
- Relevant moment: receipt of claim form

Scope of application

Geographic scope of application

All Member States of the EU with the exception of Denmark (recital 26).

Temporal scope of application

Art 29 ESCP: The Regulation shall apply from **1 January 2009**, with the exception of Article 25, which shall apply from 1 January 2008.

Jurisdiction

Standard form A:

Jurisdiction → Brussels-Ia-Regulation

4. Jurisdiction

Your application must be lodged with the court/tribunal that has jurisdiction to deal with it. The court/tribunal must have jurisdiction in accordance with the rules of Regulation (EU) No 1215/2012 of the European Parliament and of the Council.

This section includes a non-exhaustive list of possible grounds for jurisdiction.

Information on the rules of jurisdiction can be found on the website of the European Judicial Atlas at https://e-justice.europa.eu/content_brussels_i_regulation_recast-350-en.do.

You can also look at http://ec.europa.eu/civiljustice/glossary/glossary_en.htm for an explanation of some of the legal terms employed.

Jurisdiction

Jurisdiction system Brussels-Ia-Regulation

1. General jurisdiction: Art 4 Brussels-Ia

- Domicile of the defendant
- Nationality is irrelevant
- International jurisdiction

2. Special jurisdiction: Art 7-9 Brussels-Ia

- Art 7 (1): place of performance
- Art 7 (2): the place where the harmful event occurred or may occur.
- International and territorial jurisdiction (exception Art 7 [6] Brussels-Ia)
- Claimant can choose between general and special jurisdiction.

Jurisdiction

Jurisdiction system Brussels-Ia-Regulation

3. Jurisdiction

- **in matters relating to insurance:** Art 10-16 Brussels-Ia
- **over consumer contracts:** Art 17-19 Brussels-Ia
- **over individual contracts of employment:** Art 20-23 Brussels-Ia

4. Prorogation of jurisdiction: Art 25-26 Brussels-Ia

5. Exclusive Jurisdiction: Art 24 Brussels-Ia

- Art 24 (1): Rights in rem in immovable property or tenancies of immovable property → courts of Member State in which property is situated
- Can not be overridden by a prorogation of jurisdiction
- Applies regardless of the domicile and nationality of the parties
- International jurisdiction

Selection of the competent court

- Examination of whether the ESCP is applicable at all (based on the cause of action and the value of the claim)
- If the ESCP can be applied → determine which court in which Member State has jurisdiction (Brussels-Ia).
- If there are several courts in the same Member State, the court must be chosen according to the rules of territorial jurisdiction.

Commencement of the procedure

Art 4 (1) ESCP: The claimant shall commence the ESCP by

- filling in standard claim form A
 - obligatory
 - available in all official languages of the European Union: https://e-justice.europa.eu/content_small_claims_forms-177-en.do
- lodging it with the court with jurisdiction
 - directly
 - by post
 - by any other means of communication acceptable to the Member State
- **Description of evidence supporting the claim**
- **Obligatory content of the claim: Form A**

Claim form A

1. Court/tribunal

In this field you should identify the court/tribunal before which you are making your claim. When deciding which court/tribunal to choose, you need to consider the grounds for the court's/tribunal's jurisdiction. A non exhaustive list of possible grounds of jurisdiction is included in section 4. You may wish to use the dedicated search facility, available on the European e-Justice Portal to find the details (address, telephone number etc.) of the court with jurisdiction:
https://e-justice.europa.eu/content_small_claims-354-en.do

1. *Before which court/tribunal are you making your claim?*

1.1. Name:

1.2. Street and number/PO box:

1.3. City and postal code:

1.4. Country:

2. *The claimant's details*

2.1. Surname, first name/name of company or organisation:

2.2. Personal identification number or passport number/ registration number:

2.3. Street and number/PO box:

2.4. City and postal code:

2.5. Country:

2.6. Telephone (*):

2.7. E-mail (*):

2.8. Claimant's representative, if any, and contact details(*):

2.9. Other details (*):

4. *On what ground do you consider the court/tribunal to have jurisdiction?*

4.1. Domicile of the defendant

4.2. Domicile of the consumer

4.3. Domicile of the policyholder, the insured or the beneficiary in insurance matters

4.4. Place of performance of the obligation in question

4.5. Place of the harmful event

4.6. Place where the immovable property is situated

4.7. Choice of court/tribunal agreed by the parties

4.8. Other (please specify):

5. *Cross-border nature of the case*

In order to make use of the European Small Claims Procedure, your case must be of a cross-border nature. A case is of a cross-border nature if at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court/tribunal.

5. *Cross-border nature of the case*

5.1. Country of domicile or habitual residence of claimant:

5.2. Country of domicile or habitual residence of defendant:

5.3. Member State of the court/tribunal:



7.1. Claim for money

7.1.1. Amount of principal (excluding interest and costs):

[Empty text box for amount of principal]

7.1.2. Currency

Euro (EUR)

Bulgarian lev (BGN)

Croatian kuna (HRK)

Czech koruna (CZK)

Hungarian forint (HUF)

Pound Sterling (GBP)

Polish zloty (PLN)

Romanian leu (RON)

Swedish kronor (SEK)

Other (please specify):

[Empty text box for other currency specification]

7.2. Other claim:

7.2.1. Please specify what you are claiming:

[Empty text box for specifying the claim]

7.2.2. Estimated value of the claim:

[Empty text box for estimated value of the claim]

Currency:

Euro (EUR)

Bulgarian lev (BGN)

Croatian kuna (HRK)

Czech koruna (CZK)

Hungarian forint (HUF)

Pound Sterling (GBP)

Polish zloty (PLN)

Romanian leu (RON)

Swedish kronor (SEK)

Other (please specify):

[Empty text box for other currency specification]

7.3. Are you claiming the costs of proceedings?

7.3.1. Yes

7.3.2. No

7.3.3. If yes, please specify which costs and indicate the amount claimed or incurred so far:

[Empty text box for specifying costs and amounts]

7.4. Are you claiming interest?

Yes

No

If yes, is the interest:

Contractual?

If so, go to 7.4.1.

Statutory?

If so, go to 7.4.2.

7.4.1. If contractual

8. Details of claim

In 8.1. you should describe briefly the substance of your claim.

In 8.2. you should describe any relevant supporting evidence. This could, for example, be written evidence (e.g. contracts, receipts, etc.) or oral or written statements from witnesses. For each piece of evidence, please indicate which aspect of your claim it is intended to support.

If space is insufficient, you can add additional sheets.

8. Details of claim

8.1. Please give reasons for your claim, for example what happened, where and when.

8.2. Please describe the evidence you wish to put forward to support your claim and state which points of the claim it supports. Where appropriate, you should add relevant supporting documents.

8.2.1. Written evidence

please specify below

8.2.2. Witnesses

please specify below

8.2.3. Other

please specify below

9.1. Do you want an oral hearing to be held?

Yes

No

If yes, please indicate reasons(*):

9.2. If the court decides to hold an oral hearing, do you want to be physically present?

Examination of the claim by the court

- Within 14 days of receipt
- Scope of application?
- International jurisdiction?
- Claim:
 - clear and complete?
 - not manifestly unfounded or inadmissible?

Claim is outside the scope:

- Art 4 (3) ESCP: court shall inform claimant
- Opportunity to withdraw the claim

Clearly unfounded or inadmissible claim

If the claim appears to be

- clearly unfounded or
- the application inadmissible or
- if the claimant fails to complete or rectify the claim form within the time specified,

→ Application shall be dismissed.

→ Art 4 (4) ESCP: court shall inform the claimant.

Incomplete or unclear claim

If the claim appears to be

- inadequate or
 - insufficiently clear or
 - if the claim form is not filled in properly
- the court shall give the claimant the opportunity
- to complete or rectify the claim form or
 - to supply information or documents or
 - to withdraw the claim
- **Standard form B**
- **Corresponding deadline**

REQUEST BY THE COURT OR TRIBUNAL TO COMPLETE AND/OR RECTIFY THE CLAIM FORM

(Article 4(4) of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure)

To be filled in by the court/tribunal



Standard form B

Case number:
[Redacted]

Received by the court/tribunal on:
[Redacted]

1. *Court/tribunal*

1.1. Name:
[Redacted]

1.2. Street and number/PO box:
[Redacted]

1.3. City and postal code:
[Redacted]

1.4 Country:
[Redacted]

2. *Claimant*

2.1. Surname, first name/name of company or organisation:
[Redacted]

2.2. Personal identification number or passport number/ registration number(*):
[Redacted]

2.3. Street and number/PO box:
[Redacted]

2.4. City and postal code:
[Redacted]

2.5. Country:
[Redacted]

2.6. Telephone (*):
[Redacted]

2.7. E-mail (*):
[Redacted]

2.8. Claimant's representative, if any, and contact details(*):
[Redacted]

(*) Optional.

Incomplete or unclear claim

Examples:

- The information provided by the claimant is **insufficiently clear**, if it is not conclusive or not comprehensible.
- The information provided by the claimant is **inadequate**, if mandatory text fields are left blank.
- The claim form is **not filled in properly**, if the claimant uses a language other than the official language of the court for this purpose or the claimant has not signed the form.

Can the court require documents as part of an improvement order?

- The claimant needs only describe and substantiate the evidence, not attach it.

Form B

The court/tribunal has examined your claim form and considers it to be inadequate or insufficiently clear or not properly filled in: please complete and/or rectify your form in the language of the court/tribunal as indicated below as soon as possible and at the latest by

The court/tribunal shall dismiss your application under the conditions provided for in Regulation (EC) No 861(*)/2007 if you fail to complete and/or rectify it within the time limit set out above.

Your claim form has not been filled in the correct language. Please fill it in one of the following languages.

- | | | | | | |
|-----------|--------------------------|---------|--------------------------|------------|--------------------------|
| Bulgarian | <input type="checkbox"/> | Czech | <input type="checkbox"/> | German | <input type="checkbox"/> |
| Estonian | <input type="checkbox"/> | Spanish | <input type="checkbox"/> | Greek | <input type="checkbox"/> |
| French | <input type="checkbox"/> | Irish | <input type="checkbox"/> | Croatian | <input type="checkbox"/> |
| Italian | <input type="checkbox"/> | Latvian | <input type="checkbox"/> | Lithuanian | <input type="checkbox"/> |
| Hungarian | <input type="checkbox"/> | Maltese | <input type="checkbox"/> | Dutch | <input type="checkbox"/> |

Conduct of the procedure

Principle of written form: Art 5 (1) ESCP

- No presence in the court is needed
- Oral hearing only if necessary in order to decide the case.
- Claimant and defendant have the right to request a hearing:
 - Court must hold a hearing, unless it considers that it is unnecessary for the fair conduct of the proceedings.
 - Reasons for refusal: in writing
 - Refusal may not be contested separately from a challenge to the judgment itself.

Conduct of the procedure

Oral hearing: Art 5 (1a), 8 ESCP

- Appropriate **distance communication technology**
 - Unless their use is not appropriate for the fair conduct of the proceedings
- Art 8 (2) ESCP: a party **summoned in person** may request the use of distance communication technology, if this technology is available at the court.
- Art 8 (3) ESCP: a party **summoned to the electronic hearing** may request to be physically present at that hearing.
 - Costs!

Conduct of the procedure

- **Delivery of the claim to the defendant**
 - Art 5 (2) ESCP: Court shall fill in part I of the standard answer **form C**.
 - **Form C** and **copy of claim form** shall be sent to defendant within 14 days of receiving the properly filled in claim form.

Part I of standard form C

Part I (to be filled in by the court/tribunal)

Name of claimant:

Name of defendant:

Court/tribunal:

Claim:

Case number:

Conduct of the procedure

- **Response of the defendant**
 - Art 5 (3) ESCP: fill in part II of the standard answer **form C** or respond in any **other appropriate way**
 - Within 30 days of service of claim form and answer form
 - Obligatory content: form C
 - If defendant responds within 30 days → copy of response shall be sent to claimant (within 14 days)
 - If defendant doesn't respond → judgment

EUROPEAN SMALL CLAIMS PROCEDURE

FORM C

ANSWER FORM

(Article 5(2) and 5(3) of Regulation (EC) No 861 /2007 of the European Parliament and of the Council establishing a European Small Claims Procedure)

IMPORTANT INFORMATION AND GUIDELINES FOR THE DEFENDANT

A claim as set out in the attached claim form has been submitted against you using the European Small Claims Procedure.

You can answer by filling in Part II of this form and returning it to the court/tribunal, or in any other appropriate way, within 30 days after the claim form has been served on you together with the answer form.

Please note that if you do not answer within 30 days, the court/tribunal shall give a judgment.

Please make sure that you write your name clearly and sign and date the answer form at the end.

You should also read the guidelines included in the claim form; these may help you to prepare your response.



Supporting documents: You can indicate possible means of evidence, and add, where appropriate, supporting documents.

Counterclaim: If you want to make a claim against the claimant (counterclaim), you should fill in and attach a separate Form A which you can find on the internet on the European e-Justice Portal https://e-justice.europa.eu/content_small_claims_forms-177-en.do or obtain from the court/tribunal which sent you this form. Please note that for the purposes of the counterclaim you are considered to be the claimant.

Conduct of the procedure

Intermediate proceedings on the value of the claim

- Art 5 (5) ESCP: defendant can claim, that the value of a non-monetary claim exceeds the limit of 5.000 €
 - Court must decide within 30 days of sending the response to the claimant

Conduct of the procedure

Counterclaims:

- Form A
- „Counterclaim“: Art 8 (3) Brussels-Ia-Regulation *„arising from the same contract or facts on which the original claim was based.“*
- If the counterclaim does not fall within the scope
 - claimant would have to be informed and national law would apply.
- If requirements for a counterclaim are fulfilled → the court of the main action shall have jurisdiction.
 - Counterclaim shall be sent to the claimant within 14 days of receipt.
 - Claimant shall have 30 days from service to respond to the counterclaim
 - If he fails to do so → judgment
 - Answer of the claimant shall be sent to the defendant within 14 days after receipt.

Languages

Art 6 (1) ESCP:

The claim form, the response, any counterclaim, any response to a counterclaim and any description of relevant supporting documents shall be submitted **in the language or one of the languages of the court.**

Languages

Art 6 (2) ESCP:

Admissibility of foreign language documents

- Court may **require a translation** of that document
- Only if the **translation appears to be necessary** for giving the judgment.

Languages

Art 6 (3) ESCP: Refusal to accept a document, because it is not in either of the following languages:

- In the official language of the place where service is to be effected or to which the document is to be sent
- In a language which the addressee understands

→ The court shall inform the other party to provide a translation of the document.

→ Time limit: one week (recital 19)

Conclusion of the procedure

Art 7 (1) ESCP: principle of immediate judgment

- Within 30 days of receipt of the response from the defendant or the claimant
- If the case is not ready yet for decision, the court shall
 - demand further details concerning the claim from the parties or
 - take evidence in accordance with Article 9 or
 - summon the parties to an oral hearing.
- If the case is ready for decision
 - Judgment
 - Service on parties: Art 13 ESCP

Taking of evidence

The court shall determine

- the means of taking evidence and
- the extent of the evidence necessary for its judgment.

The court shall use the simplest and least burdensome method of taking evidence.

The court may admit the taking of evidence through **written statements** of witnesses, experts or parties or by using electronic communication.

Legal representation

Art 10 ESCP:

The representation by a lawyer or another legal professional shall not be mandatory.

Basic principles of the procedure

Art 12 ESCP:

- The court shall **not** require the parties to make any **legal assessment** of the claim.
- If necessary, the court or tribunal shall **inform** the parties about **procedural questions**.
- Whenever appropriate, the court shall **seek to reach a settlement** between the parties.

Service of documents

Possible methods of service of claim, counterclaim and judgment are:

- by postal services,
- by electronic means.

The service shall be attested by an acknowledgment of receipt including the date of receipt.

Enforceability of the judgment

Art 15 ESCP:

The judgment shall be enforceable notwithstanding any possible appeal (no suspensive effect).

The provision of a security shall not be required.

Art 23 ESCP:

Upon application by the party enforcement may be **suspended** or **limited** if

- a party has challenged the judgment or
- such a challenge is still possible, or
- a party has requested a review of the judgment pursuant to Art 18 ESCP.
 - Limit enforcement proceedings to protective measures
 - Make enforcement conditional on the provision of such security as it shall determine
 - Stay enforcement proceedings

Court fees

Art 15a ESCP:

The court fees shall **not be disproportionate** and shall not be higher than the court fees charged for national simplified court procedures in that Member State.

Distance payment methods:

- bank transfer;
- credit or debit card payment; or
- direct debit from the claimant's bank account

Costs

Art 16 ESCP:

The unsuccessful party shall bear the costs of the proceedings.

However, the court or tribunal shall not award costs to the successful party to the extent that they were unnecessarily incurred or are disproportionate to the claim.

Lawyer's fees?

Appeal

Art 17 ESCP:

Member States shall inform the Commission whether an appeal is available under their procedural law against a judgment given in the European Small Claims Procedure and within what time limit such appeal shall be lodged.

Review of the judgment in exceptional cases

Art 18 ESCP:

- Autonomous procedure in the case that the defendant was unable to contest the claim.
- Time limit: 30 days
- The defendant is able to apply for a review of the judgment
 - If he was **not served with the claim form**, or, in the event of an oral hearing, was **not summoned to that hearing**, in sufficient time and in such a way as to enable him to arrange for his defence; or
 - **force majeure** or due to **extraordinary circumstances without any fault** on his part.

Review of the judgment in exceptional cases

Options of the court:

- If the court rejects the application for a review because none of the reasons in Art 18 (1) ESCP is given, the judgment shall **remain in force**.
- If the court decides that a review is justified, the judgment shall be **null and void**.

Recognition and enforcement

Art 20 ESCP: Abolition of exequatur

- A judgment given in a Member State under the ESCP shall be recognised and enforced in another Member State
 - without the need for a declaration of enforceability and
 - without any possibility of opposing its recognition.
- **Certificate:** standard form D



EUROPEAN SMALL CLAIMS PROCEDURE

FORM D

CERTIFICATE CONCERNING A JUDGMENT IN THE EUROPEAN SMALL CLAIMS PROCEDURE OR A COURT SETTLEMENT

(Article 20(2) and 23a of Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure)

To be filled in by the court/tribunal

1. Court/tribunal
1.1. Name:
<input type="text"/>
1.2. Street and number/PO box:
<input type="text"/>
1.3. City and postal code:
<input type="text"/>
1.4 Country:
<input type="text"/>
2. Claimant
2.1. Surname, first name/name of company or organisation:
<input type="text"/>
2.2. Personal identification number or passport number/ registration number(*):
<input type="text"/>
2.3. Street and number/PO box:
<input type="text"/>
2.4. City and postal code:
<input type="text"/>
2.5. Country:
<input type="text"/>
2.6. Telephone (*):
<input type="text"/>



BG - Европейски портал за електронно правосъдие

ES - Portal Europeo de e-Justicia

CS - Portál evropské e-Justice

DA - Den europæiske e-justice-portal

DE - Europäisches Justizportal

ET - Euroopa e-õiguskeskkonna portaal

EL - Διαδικτυακή πύλη της ευρωπαϊκής ηλεκτρονικής δικαιοσύνης

EN - European e-Justice Portal

FR - Portail e-Justice européen

HR - Europski portal e-pravosuđa

IT - Portale europeo della giustizia elettronica

LV - Eiropas e-tiesiskuma portāls

LT - Europos e. teisingumo portalas

HU - Európai igazságügyi portál

MT - Portal Ewropew Ġustizzja-e

NL - Europees e-justitieportaal

PL - Europejski portal e-sprawiedliwość

PT - Portal Europeu da Justiça

RO - Portalul european e-justiție

SK - Európsky portál elektronickej justície



Welcome to the new version of the European e-Justice Portal!

The European e-Justice Portal is conceived as a future electronic one-stop-shop in the area of justice.

As a first step it strives to make your life easier by providing information on justice systems and improving access to justice throughout the EU, in 23 languages.



Featured

- Online forms
- Impact of COVID-19 on the justice field
- European Judicial Atlas in civil matters
-  European Judicial Network in civil and commercial matters
-  European Judicial Network in criminal matters

Online forms

Generate a filled in PDF form ready to send to the court/authority or download a blank, editable PDF form.

European Payment Order forms

National information and online forms concerning Regulation No. 1896/2006.

Small claims forms

National information and online forms concerning Regulation No. 861/2007.

You do not know whether the European payment order or the European small claims procedure can be used for your claim? Use the wizard to help you decide.

Start the wizard

Enforcement procedure

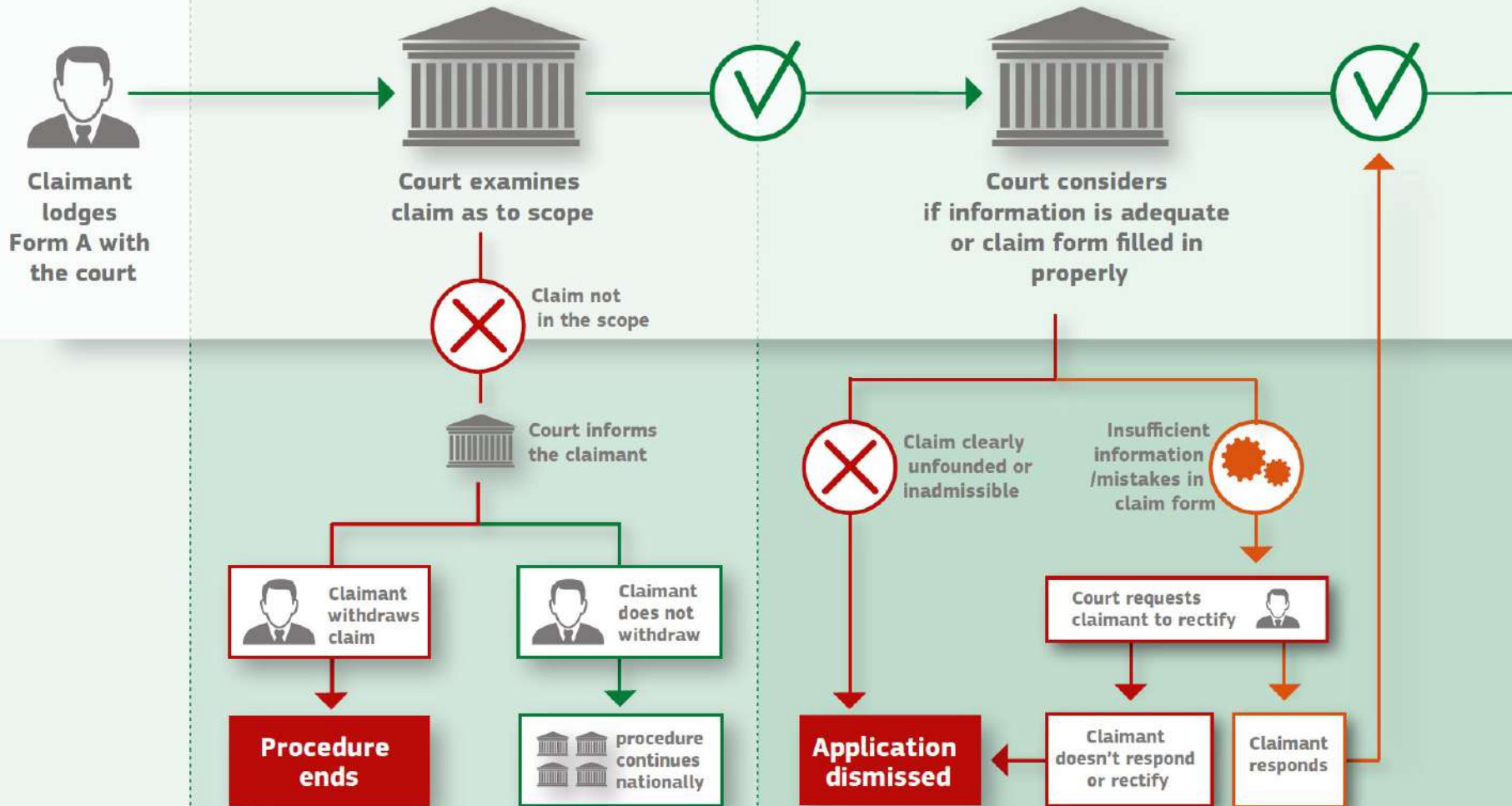
Art 21 (1) ESCP:

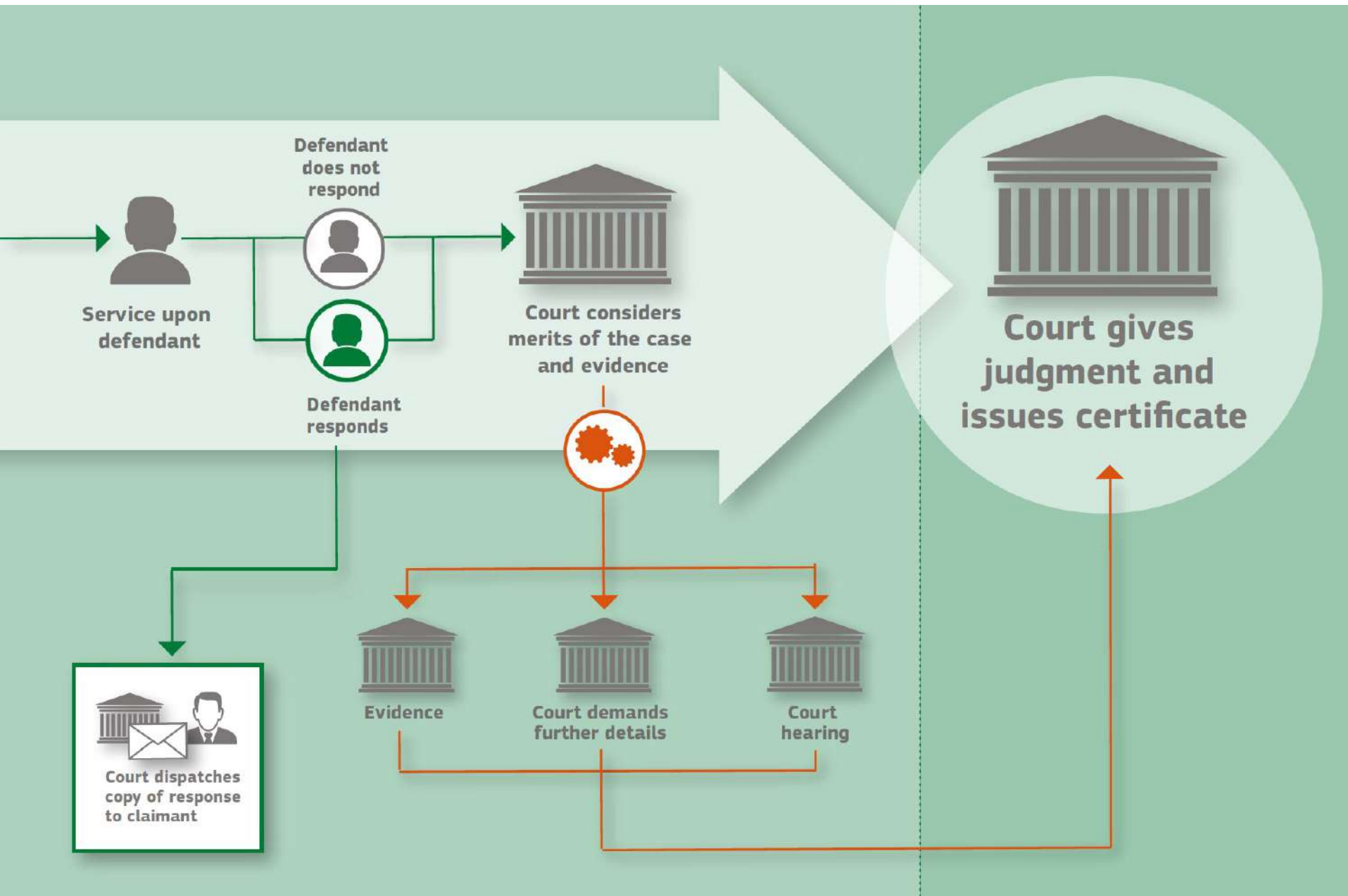
- Enforcement procedures shall be governed by the **law of the Member State of enforcement.**
- The party seeking enforcement must provide two documents:
 - A copy of the judgment
 - The certificate referred to in Article 20 (2) and, where necessary, the translation thereof into the official language of the Member State of enforcement

Refusal of enforcement

- Application by the person against whom enforcement is sought
- Judgment is irreconcilable to an earlier judgment given in any Member State or in a third country (title collision):
 - The earlier judgment **involved the same cause of action** and was between the **same parties**;
 - The earlier judgment was given in the Member State of enforcement or fulfils the **conditions** necessary for its recognition in the Member State of enforcement; and
 - The irreconcilability was not and could not have been raised as an objection in the court proceedings in the Member State where the judgment was given.

Small claims procedure







*Train 2 EN4CE Project is being funded by the
European Union's Justice Programme (2014-2020)*



**UNI
GRAZ**

Thank you for your attention!