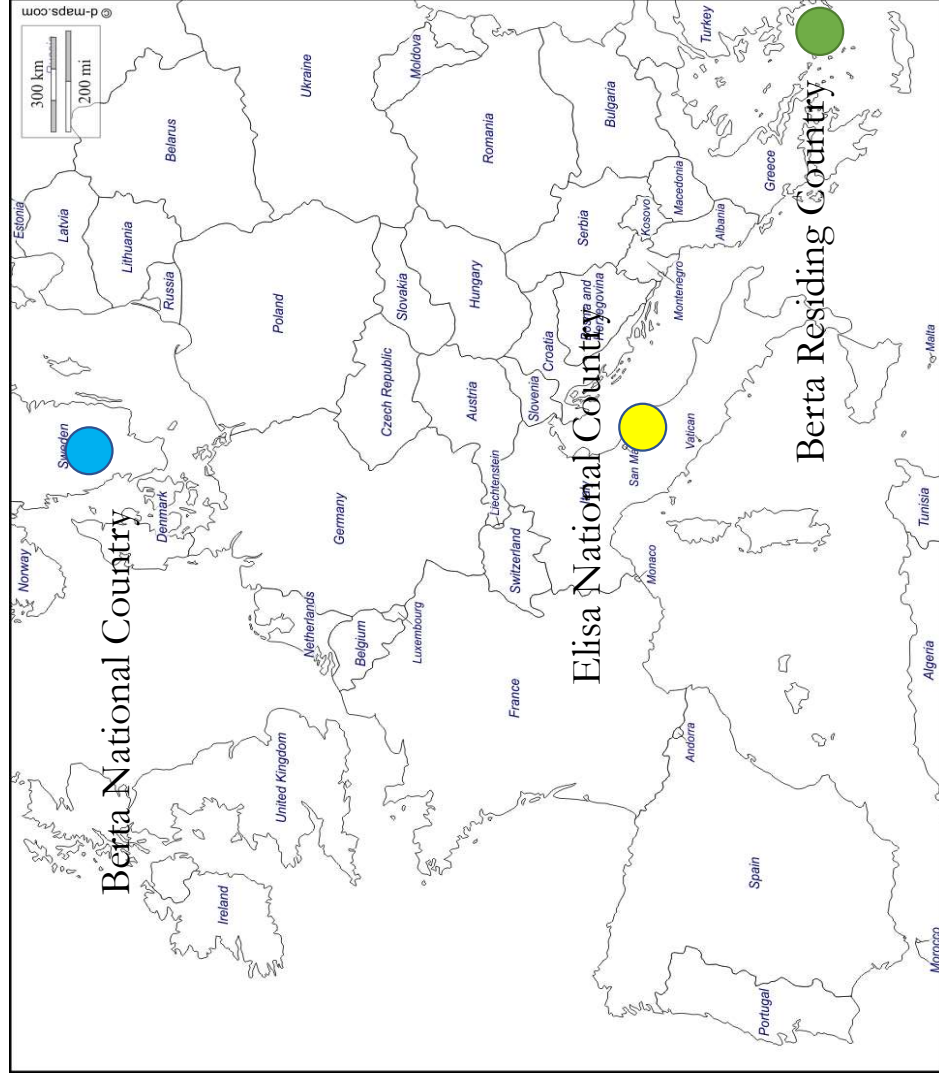


ELISA WOULD LIKE TO BUY TWO LUXURY BAGS

Elisa, an Italian national, purchases online two Gucci bags from Berta, a Swedish national domiciled and residing in Cyprus. Upon delivery, however, Elisa realizes that she received two Carpisa bags, that are different and substantially of lower value, than those she had ordered. With the help of an online automatic translator, Elisa therefore files a claim written in Greek by using Form A of the ESCP Regulation with the Nicosia District Court, claiming € 2.000 as the difference between the price she had paid and the actual value of the bags. The court fills out Part I of Form C, which is then served upon Berta.



Scenario 1

Suppose that:

upon being served Form C together with a copy of Form A, Berta refuses to receive the documents, indicating that both forms are written in Greek and that she does not understand it, since she only speaks Swedish and English.

Scenario 1

- Question** → Is Berta allowed to do so?
→ In the affirmative, what the Nicosia District Court and/or Berta should do?

Scenario 1

Relevant Norm → Issues of language and of service are covered by Art. 6 ESCP Regulation.

Scenario 1

Art. 6 ESCP Regulation

1. 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 or tribunal.
2. If any other document received by the court or tribunal is not in the language in which the proceedings are conducted, the court or tribunal may require a translation of that document only if the translation appears to be necessary for giving the judgment.
3. Where a party has refused to accept a document because it is not in either of the following languages:
 - (a) the official language of the Member State addressed, or, if there are several official languages in that Member State, the official language or one of the official languages of the place where service is to be effected or to where the document is to be dispatched; or
 - (b) a language which the addressee understands,the court or tribunal shall so inform the other party with a view to that party providing a translation of the document.

Scenario 1

Art. 6 ESCP Regulation is in line with the solution already provided by Regulation (EC) no. 1393/2007 of 13 November 2007 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (the so-called Service Regulation).

Art. 8(1)(a) Service Regulation allows the addressee of a document to be served to refuse the service of the document if the latter is not written in, or accompanied by a translation into, a language which the addressee understands or in the official language of the Member State addressed.

Scenario 1

Art. 8 Service Regulation

1. The receiving agency shall inform the addressee, using the standard form set out in Annex II, that he/she may refuse to accept the document to be served at the time of service or by returning the document to the receiving agency within one week if it is not written in, or accompanied by a translation into, either of the following languages:
 - (a) a language which the addressee understands; or
 - (b) the official language of the Member State addressed [...].

Scenario 1

Answer → Elisa rightfully presented her claim in Greek, which is the language of the relevant court under Art. 6(1) ESCP Regulation.

However → Berta's request is legitimate under both Art. 6(3) ESCP Regulation and Art. 8(1) Service Regulation.

Therefore → The Nicosia District Court will handle Berta's refusal by requiring Elisa to submit a translation in Swedish or English of both Forms A and C and then serving them to Berta again.

Scenario 2

Suppose that:

upon being served Form C together with a copy of Form A, Berta does not submit a response.

Scenario 2

Question → What the Nicosia District Court and/or Berta should do?

Scenario 2

Answer → Berta is obviously free to decide whether to defend herself or not.

If Berta does not submit her answer to the claim within 30 days from the moment in which Part I of Form C has been served to her, as provided by Art. 5(3) ESCP Regulation, the court is allowed to proceed with the procedure in the absence of the defendant.

As specified by Art. 7(3) ESCP Regulation, after the expiry of the time-limit of 30 days, the court shall adopt its decision.

Scenario 2

Art. 5(3) ESCP Regulation

The defendant shall submit his response within 30 days of service of the claim form and answer form, by filling in Part II of standard answer Form C, accompanied, where appropriate, by any relevant supporting documents, and returning it to the court or tribunal, or in any other appropriate way not using the answer form.

Art. 7(3) ESCP Regulation

If the court or tribunal has not received an answer from the relevant party within the time limits laid down in Art. 5(3) or (6), it shall give a judgment on the claim or counterclaim.

Scenario 2

As a consequence → If no answer from Berta reaches the Cypriot court within the time-limit provided by Art. 5(3) ESCP Regulation, the Cypriot court might go further with the procedure.

As a further consequence → If the court finds for Elisa, Berta will not be allowed to ask for a review of the decision, unless she proves, as provided by Art. 18 ESCP Regulation, that she did not enter in the proceedings because she was not regularly served with the claim or was prevented from contesting it because of reasons of *force majeure* not attributable to her.

Scenario 2

Art. 18 ESCP Regulation

1. A defendant who did not enter an appearance shall be entitled to apply for a review of the judgment given in the European Small Claims Procedure before the competent court or tribunal of the Member State in which the judgment was given, where:
 - (a) the defendant 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
 - (b) the defendant was prevented from contesting the claim by reason of *force majeure* or due to extraordinary circumstances without any fault on his part, unless the defendant failed to challenge the judgment when it was possible for him to do so.
2. The time limit for applying for a review shall be 30 days. It shall run from the day the defendant was effectively acquainted with the contents of the judgment and was able to react, at the latest from the date of the first enforcement measure having the effect of making the property of the defendant non-disposable in whole or in part. No extension of the time limit may be granted. [...]

Scenario 2

No review is allowed outside the circumstances mentioned by Art. 18 ESCP Regulation.

Case-law on the ESCP Regulation made it clear, for instance, that a defendant who did not answer to the claim within the time limit set forth by Art. 5(3) ESCP Regulation cannot, upon service of the judgment, ask for a review of the judgment arguing that he/she did not know whom to address to present her defenses or that the documents were communicated to her in a language she did not understand.

Scenario 2

In the end → if no response from Berta is received within 30 days from the service of the Forms to her, the Nicosia District Court should proceed with the evaluation of the claim and with the relevant decision, that will not be challengeable by Berta, unless she can prove the circumstances mentioned by Art. 18 ESCP Regulation.

Scenario 3

Suppose that:

upon service of Part I of Form C together with a copy of Form A, Berta fills out Part II of Form C.

In particular → Berta alleges that she has already submitted before the Tribunal of Trieste a request to go on with a European order for payment against Elisa, since the latter did not pay the price of the luxury bags in full.

Scenario 3

Question: What the Nicosia District Court should do?

Scenario 3

That is an issue of *lis pendens*.

Is Regulation (EC) no. 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure (the so-called EOPP Regulation) here at stake too?

Yes, but → Neither the ESCP Regulation nor EOPP Regulation deal with the issue of *lis pendens*.

Scenario 3

Therefore → The relevant provision in this case is Art. 29 of the Regulation (EU) no. 1215/2012 of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (the so-called Brussels I *bis* Regulation) → According to this norm the first European court seized on a given matter has jurisdiction, while subsequent courts should stay the proceedings or decline jurisdiction in favor of the first court seized.

Scenario 3

Art. 29 Brussels I bis Regulation

1. [...] where proceedings involving the same cause of action and between the same parties are brought in the courts of different Member States, any court other than the court first seised shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seised is established.
2. In cases referred to in Para. 1, upon request by a court seised of the dispute, any other court seised shall without delay inform the former court of the date when it was seised in accordance with Art. 32.
3. Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.

Scenario 3

As a matter of fact → Under circumstances similar to the ones outlined here, the Court of Appeal of Barcelona held that a claim under the ESCP Regulation should be rejected whenever the judge becomes aware of a concurrent situation of *lis pendens* with respect to a request between the same parties for a European Order for Payment brought before another court and arising out from the same relationship.

The Court of Appeal of Barcelona therefore held that the decision by the first instance court to dismiss the action under the ESCP Regulation was correct and rejected the appeal under Art. 17 of the ESCP Regulation.

See: Court of Appeal of Barcelona, 21 May 2014, SAP B 5840/2014, ECLI:ES:APB:2014:5840, at <https://ic2be.uantwerpen.be/>.

Scenario 3

Answer → the Nicosia District Court will legitimately dismiss the action once the existence of a European Order for Payment procedure pending before the Tribunal of Trieste is confirmed.

Scenario 4

Suppose that:

upon service of Part I of Form C together with a copy of Form A, Berta does not answer and the Nicosia District Court issues a judgment in favor of Elisa;

the judgment is then served to Berta;

Berta files a request for review of the decision within the time-limit set forth by Art. 18(2) ESCP Regulation arguing that she has never received the documents of the proceeding;

indeed, it comes out that Part I of Form C was served by the court to the wrong address, insofar as the claimant did not fill in the correct address in Form A.

Scenario 4

Question → Should the review be allowed?

Scenario 4

Answer → Yes, as said, the grounds for a request of review are set forth by Art. 18(1) ESCP Regulation, under which a defendant who did not answer to the claim can apply for review if he/she can prove that he/she was not correctly served with the claim.

Scenario 4

As a matter of fact → under similar circumstances, the District Court of Den Bosch (The Netherlands) argued that, since the claimant's mistake substantially deprived the defendant of the possibility to respond to the claim, the defendant's request for review was well-founded.

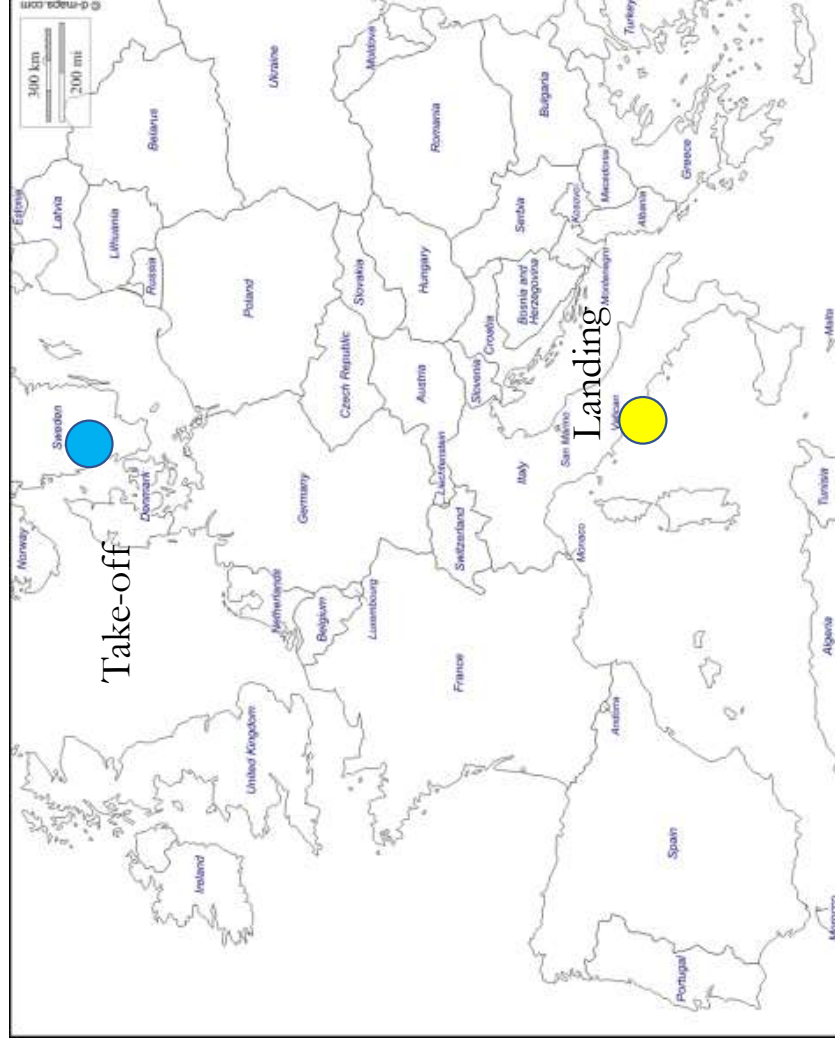
Consequently → the Court set aside the challenged decision and fixed an oral hearing.

See: District Court of Den Bosch, 13 October 2011, ECLI:NL:RBSHE:2011:BY8209, at

<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBSHE:2011:BY8209>.

INGRID FLIES FROM STOCKHOLM TO ROME

Ingrid, a Swedish national, books for her and her big family, composed of seven people, a flight with Alitalia from Stockholm Arlanda to Rome Fiumicino. The flight lands three hours and eleven minutes later than the expected landing time. As a consequence, Ingrid, on her behalf and on behalf of her relatives, files a claim by using Form A of the ESCP Regulation with the Justice of the Peace of Rome, where Alitalia has its seat, for compensation in accordance with ESCP Regulation for an amount of € 250 each, for a total of € 1.750, plus interests, court fees and other disbursement.



Scenario 1

Suppose that:

Ingrid stands trial personally.

Scenario 1

Question → Should the Justice of the Peace of Rome reject Ingrid's request because under Italian law Ingrid should be represented by a lawyer?

Scenario 1

Answer → Under the ESCP Regulation, representation of a lawyer is not necessary.

Art. 10 ESCP Regulation

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

Scenario 1

- Problem** → Art. 10 ESCP Regulation however does not correspond to principles of Italian civil procedure.
- Under Art. 82 of the Italian Code of Civil Procedure (CCP), enacted in 1940, representation by a lawyer is always mandatory before Italian courts, except in cases brought before the Justice of the Peace.
- Before the Justice of the Peace, a party can always stand trial personally in disputes whose economic value does not exceed 1.100 €.
- In disputes of higher economic value, a person can stand trial personally only if authorized by the Justice of the Peace.

Scenario 1

Art. 82 Italian CCP

1. Before the Justice of the Peace litigants can stand trial personally, if the economic value of the dispute does not exceed 1.100 €.
 2. In all other cases, parties cannot stand trial without the representation or assistance of a lawyer. However, taking into consideration the nature and value of the dispute, the Justice of the Peace, upon request, might authorize a party to stand trial personally.
 3. Except in cases provided by law, before the Tribunal and the Court of Appeal parties can stand trial only if represented by a lawyer and, before the Court of Cassation, parties can stand trial only if represented by a lawyer admitted before the Court.
- A further exception is provided by Art. 86 of the Italian CCP, according to which a party who is qualified as a lawyer can stand trial personally.

Scenario 1

Art. 82 Italian CCP is therefore partially conflicting with Art. 10 ESCP Regulation.

The issue of the relationship between the ESCP Regulation and national civil procedure rules is partially dealt with in Art. 19 of the ESCP Regulation.

Art. 19 ESCP Regulation

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.

Scenario 1

Solution → Art. 19 ESCP Regulation makes it clear that national procedural law applies to all the matters not covered by the Regulation. By contrast, in matters covered by the ESCP, the Regulation prevails.

Therefore → Ingrid can stand trial personally, no matter what the Italian CCP provides.

Scenario 1

In addition → It should be further noted that, under Art. 113(2) Italian CCP, Justices of the Peace are obliged to decide cases according to equity (rather than legal norms) in disputes whose economic value does not exceed € 1.100, unless the dispute concerns contractual relationships based on standard form contracts.

Scenario 1

Art. 113 Italian CCP

1. In deciding a case, the court must follow the rules of law, except when the law grants her the power to decide in accordance with equity.
2. The Justice of the Peace decides on an equitable basis claims not exceeding € 1.100, provided that they do not relate to contracts governed by uniform standard terms and conditions.

Scenario 1

Even if Art. 113 CCP does not apply to the scenario outlined above, it is worth noting that, according to Italian commentators, Art. 113 CCP remains applicable in the context of the ESCP Regulation, insofar as the latter does not regulate the issue of the applicable law.

This means that, in Italy, claims brought under the ESCP Regulation will be decided by Justices of the Peace on an equitable basis, provided that the claim has an economic value not exceeding € 1.100 and does not stem from relationships based on standard form contracts.

Scenario 2

Suppose that:

Ingrid does not ask for an oral hearing and Alitalia does not submit its response;

the Justice of the Peace of Rome delivers a judgment based on the statement of the claim and on the documents attached to the claim;

Alitalia then lodges an appeal against the decision, claiming that the Justice of the Peace of Rome failed to determine the circumstances relevant to the claim and to correctly evaluate evidence.

Scenario 2

Question → Is the appeal well founded, as to both the procedure and the merit?

Scenario 2

Preliminary Answer → The ESCP Regulation does not determine whether a decision adopted under the ESCP Regulation should be open to appeal, leaving the issue to the determination of Member States.

In this regard, Art. 25(1)(g) of the ESCP Regulation obliges Member States to inform the European Commission about the solution applicable in their legal system.

Scenario 2

Art. 25(1)(g) ESCP Regulation

1. By 13 January 2017, the Member States shall communicate to the Commission [...] any appeal available under their procedural law in accordance with Art. 17(1), the time period within which such an appeal is to be lodged, and the court or tribunal with which such an appeal may be lodged [...].

Art. 17(1) ESCP Regulation

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. The Commission shall make that information publicly available.

Scenario 2

In its communication concerning Art. 25(1)(g), Italy stated that → “[t]he decisions of the justices of the peace can be challenged before the ordinary courts [...]. The time-limit for lodging a challenge is 30 days from notification of the judgment (Art. 325 of Italy CCP) or six months from its publication in the event of the judgment not being notified (Art. 327 CCP)”.

The communication makes it clear that parties under Italian law can lodge an appeal against a decision issued under the ESCP Regulation.

First answer → Alitalia’s appeal, if lodged within the prescribed time limit, is admissible.

Scenario 2

As to the merit of the appeal, one should consider that, under Arts 5(1) and 9(1) ESCP Regulation, the decision as to whether an oral hearing should be held (in the absence of parties' requests) and as to how evidence should be evaluated is left to the determination of the judge.

Scenario 2

Art. 5(1) ESCP Regulation

The European Small Claims Procedure shall be a written procedure. The court or tribunal shall hold an oral hearing only if it considers that it is not possible to give the judgment on the basis of the written evidence or if a party so requests. [...]

Art. 9(1) ESCP Regulation

The court or tribunal shall determine the means of taking evidence, and the extent of the evidence necessary for its judgment, under the rules applicable to the admissibility of evidence. It shall use the simplest and least burdensome method of taking evidence. [...].

Scenario 2

The fact that the judge issued its decision without holding an oral hearing and only on the basis of the documents presented by the claimant is not, in itself, a ground for appealing the decision under Art. 17 ESCP Regulation.

Second answer → Alitalia's appeal is therefore unfounded in the merit.

Scenario 2

In addition → It should be noted that Alitalia is also precluded from applying for the review of the decision by the Justice of the Peace of Rome, since Art. 18 ESCP Regulation entitles a defendant who did not submit a response to apply for review only if the defendant can prove that he/she was not served with the claim or was prevented from contesting the claim by reasons of *force majeure* not attributable to him/her.

Scenario 3

Suppose that:

Ingrid is represented by a lawyer and her claim is upheld by the Justice of the Peace of Rome;

in its decision, the Justice of the Peace of Rome awards € 75 to the lawyer for her service, notwithstanding the request to award € 500 for the lawyer's service;

Ingrid challenges the decision by lodging an appeal before the Tribunal of Rome.

Scenario 3

Question : Is the appeal well founded?

Scenario 3

First answer → From a procedural point of view, as said above under scenario no. 2, Ingrid under Italian law can appeal the decision before the Tribunal of Rome.

Second answer → As to the merit of the claim, the only relevant provision in the ESCP Regulation concerning legal fees is Art. 16, which prohibits awarding fees that are unnecessary and disproportionate.

Scenario 3

Art. 16 ESCP Regulation

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.

Scenario 3

The ESCP Regulation leaves any other issue concerning the award of the costs of the proceedings to national law.

In Italy, lawyers' fees are determined by the Decree of the Ministry of Justice no. 55 of 10 March 2014, according to which remuneration for lawyers' services should be proportionate to the value of the dispute and the amount of work performed.

Under said Decree, average remuneration for representation in a proceeding before the Justice of the Peace whose economic value is € 1.750 should be comprised between € 600 and € 2.200.

Scenario 3

Ingrid's claim is therefore well founded, because the award by the Justice of the Peace of Rome as to the fees of Ingrid's lawyer is consistently lower than the average value of such fees.

Indeed, in a similar case, the Tribunal of Rome – on appeal from a decision by a Justice of the Peace awarding to a lawyer € 75 as remuneration – held that the sum awarded to the lawyer was trifling and offensive to the professional dignity of the lawyer, and quashed the decision.

Scenario 4

Suppose that:

Ingrid is represented by a lawyer and that her claim is upheld by the Justice of the Peace of Rome;

this latter however decides that each party has to bear their own court fees;

Ingrid challenges the decision by lodging an appeal before the Tribunal of Rome.

Scenario 4

Question → Is the appeal well founded?

Scenario 4

First Answer → From a procedural point of view, as said above under scenario no. 2, under Italian law Ingrid can appeal the decision before the Tribunal of Rome.

Second Answer → As to the merit of the claim, the relevant provision in the ESCP Regulation concerning costs is Art. 16, under which “the unsuccessful party shall bear the costs of the proceedings” .

Scenario 4

Art. 16 should be read in light of the interpretive guidelines provided by Court of Justice of the European Union, judgment of 14 February 2019, C 554/17, *Rebecka Jonsson*.

Scenario 4

In the *Rebecka Jonsson* case, Ms. Jonsson, domiciled in Sweden, brought a proceeding against a French-incorporated company for copyright infringement before the Tribunal of First Instance of Attunda, in Sweden.

This Tribunal made a partial award in favour of Ms. Jonsson and determined that each party had to pay their own court fees.

Upon Ms. Jonsson's appeal of the decision before the Court of Appeals of Stockholm, the Court made a preliminary reference to the Court of Justice of the European Union, requesting that Court to determine whether Art. 16 of the ESCP Regulation allows for national provisions under which the costs of proceedings may be set off or adjusted depending on whether the parties were in part successful and in part unsuccessful.

The CJEU answered the question in the affirmative.

Scenario 4

Court of Justice of the European Union, judgment of 14 February 2019, C 554/17, *Rebecka Jonsson*, **point 30** → “Art. 16 of Regulation (EC) no. 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure must be interpreted as not precluding national legislation under which, where a party succeeds only in part, the national court may order each of the parties to the proceedings to bear its own procedural costs or may apportion those costs between those parties. In such a situation, the national court remains, theoretically, free to apportion the amount of those costs, provided that the national procedural rules on the apportionment of procedural costs in small cross-border claims are not less favourable than the procedural rules governing similar situations subject to domestic law and that the procedural requirements relating to the apportionment of those procedural costs do not result in the persons concerned foregoing the use of that European small claims procedure by requiring an applicant, when he has been largely successful, nonetheless to bear his own procedural costs or a substantial portion of those costs”.

Scenario 4

Therefore → According to the Court of Justice of the European Union, Art. 16 ESCP Regulation should be read as allowing national courts to apportion costs between the parties in case of partial success of the claim, if national rules so provide.

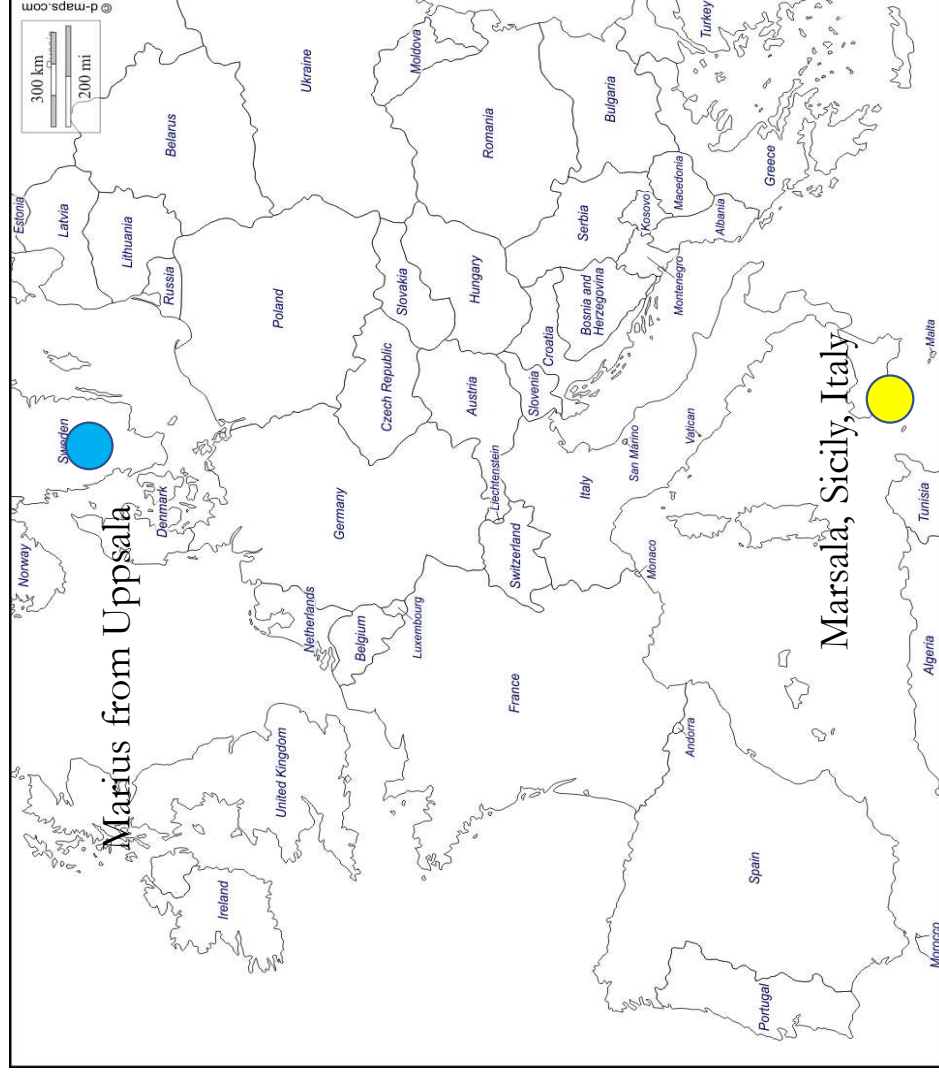
By contrast, Art. 16 cannot be read as allowing the apportionment of legal costs when the claim is fully upheld.

Scenario 4

Final Answer → The Justice of the Peace of Rome upheld Ingrid's claim in its entirety and yet ordered to set off parties' legal costs → the decision therefore does not conform to the *Rebecka Jonsson* interpretation → Ingrid's claim is well founded.

MARIUS WANTED TO DRINK GOOD WINE

Marius, a guy from Uppsala, spends his summer vacation in Marsala (Italy) and books an exquisite wine tasting with the company Cantine Florio (established in Marsala, Italy). Because Marius comes to the conclusion at the end of the tasting that hardly any of the wines were enjoyable, he leaves the wine cellar without paying. Cantine Florio now demands payment of €330,00 plus late-payment interest from Marius and initiates the European Small Claims Procedure by means of Form A, which is duly sent to the Swedish competent authority.



Scenario 1

Suppose that:

Marius requests that an oral hearing be held.

Scenario 1

Question → Is the Swedish competent authority obliged to schedule an oral hearing?

Scenario 1

Preliminary Answer → According to Art. 5(1) ESCP Regulation, the procedure shall be a written one.

Scenario 1

However → Again according to Art. 5(1) ESCP Regulation, the Swedish competent authority shall hold an oral hearing if a party so requests.

Nonetheless → Art. 5(1) ESCP Regulation also states that the Swedish competent authority could refuse Marius' request if it considers that, with regard to the circumstances of the case, an oral hearing is not necessary for the fair conduct of the proceedings.

The reasons for the refusal shall be given in writing.

The refusal may not be contested separately from a challenge to the judgment itself, as stated by Art. 5(1)(a) ESCP Regulation.

Scenario 1

In addition → Art 6. of European Convention on Human Rights and Art. 47 of the EU Charter of Fundamental Rights have to be taken into consideration.

According to the case law of the European Court of Human Rights, an oral hearing can only be dispensed with in certain cases.

For instance, if the parties have waived an oral hearing (European Court of Human Rights, appl. no. 12235/86, *Zumtobel v. Austria*, judgment of 21 September 1993).

Another example is when the questions of fact and law that are raised can also be adequately answered in a mere written procedure (European Court of Human Rights, appl. no. 28394/95, *Döry v. Sweden*, judgment of 12 November 2002).

Scenario 1

Final Answer → It is doubtful whether a written procedure is sufficient to adequately answer the factual and legal questions in the case at hand: an oral hearing might therefore be scheduled.

Scenario 2

Suppose that:

Marius is served with the Swedish competent authority's standard answer Form C on the 27 October 2020; he has a lot on his plate at the moment at work so he puts off answering the Answer Form C for the time being; only on the 7 December 2020 he fills it out and returns it to the Swedish competent authority; that means that the 30-day time limit enshrined in Arts 5(3) and 7(1) ESCP Regulation for responding to the claim has already elapsed.

Scenario 2

First Question → How will the court proceed after the 30-day period has expired?

Scenario 2

Answer → Pursuant to Art. 7(3) ESCP Regulation, the court shall give a default judgment, if no response is received from the defendant within the time limit for responding to the claim (30 days from the date of service).

To be precise, the date of posting is sufficient to comply with the time limit for responding to the claim; the date of receipt by the court is not relevant.

Scenario 2

Second Question → Does Marius have the possibility to appeal against the default judgment?

Scenario 2

Answer → Pursuant to Art 19 ESCP Regulation, the answer shall be searched for in Swedish law as the national law of the State in which the procedure is conducted.

Scenario 3

Suppose that:

Marius is served with the Swedish competent authority's standard answer Form C on the 27 October 2020;

he is hospitalized for two months due to an accident;

hence, he does not learn of the default judgment issued on the 24 November 2020 until the day of his discharge (3 January 2021);

the default judgment is in favour of Cantine Florio.

Scenario 3

Question → Does Marius have an opportunity to appeal for a review of the default judgment?

Scenario 3

Answer → In this case, a review of the judgment is possible pursuant to Art 18(1)(b) ESCP Regulation, because Marius was hospitalized and thus prevented from contesting the claim due to extraordinary circumstances without any fault on its part.