

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

CHAPTER III

**MINIMUM STANDARDS FOR UNCONTESTED CLAIMS PROCEDURES**

*Article 12*

**Scope of application of minimum standards**

- 1 A judgment on a claim that is uncontested within the meaning of Article 3(1)(b) or (c) can be certified as a European Enforcement Order only if the court proceedings in the Member State of origin met the procedural requirements as set out in this Chapter.
- 2 The same requirements shall apply to the issuing of a European Enforcement Order certificate or a replacement certificate within the meaning of Article 6(3) for a decision following a challenge to a judgment where, at the time of that decision, the conditions of Article 3(1)(b) or (c) are fulfilled.

*Article 13*

**Service with proof of receipt by the debtor**

- 1 The document instituting the proceedings or an equivalent document may have been served on the debtor by one of the following methods:
  - a personal service attested by an acknowledgement of receipt, including the date of receipt, which is signed by the debtor;
  - b personal service attested by a document signed by the competent person who effected the service stating that the debtor has received the document or refused to receive it without any legal justification, and the date of the service;
  - c postal service attested by an acknowledgement of receipt including the date of receipt, which is signed and returned by the debtor;
  - d service by electronic means such as fax or e-mail, attested by an acknowledgement of receipt including the date of receipt, which is signed and returned by the debtor.
- 2 Any summons to a court hearing may have been served on the debtor in compliance with paragraph 1 or orally in a previous court hearing on the same claim and stated in the minutes of that previous court hearing.

*Article 14*

**Service without proof of receipt by the debtor**

- 1 Service of the document instituting the proceedings or an equivalent document and any summons to a court hearing on the debtor may also have been effected by one of the following methods:
  - a personal service at the debtor's personal address on persons who are living in the same household as the debtor or are employed there;

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*Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 805/2004 of the European Parliament and of the Council, CHAPTER III. (See end of Document for details)*

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- b in the case of a self-employed debtor or a legal person, personal service at the debtor's business premises on persons who are employed by the debtor;
  - c deposit of the document in the debtor's mailbox;
  - d deposit of the document at a post office or with competent public authorities and the placing in the debtor's mailbox of written notification of that deposit, provided that the written notification clearly states the character of the document as a court document or the legal effect of the notification as effecting service and setting in motion the running of time for the purposes of time limits;
  - e postal service without proof pursuant to paragraph 3 where the debtor has his address in the Member State of origin;
  - f electronic means attested by an automatic confirmation of delivery, provided that the debtor has expressly accepted this method of service in advance.
- 2 For the purposes of this Regulation, service under paragraph 1 is not admissible if the debtor's address is not known with certainty.
- 3 Service pursuant to paragraph 1, (a) to (d), shall be attested by:
- a a document signed by the competent person who effected the service, indicating:
    - (i) the method of service used; and
    - (ii) the date of service; and
    - (iii) where the document has been served on a person other than the debtor, the name of that person and his relation to the debtor,
  - or
  - b) an acknowledgement of receipt by the person served, for the purposes of paragraphs 1(a) and (b).

#### *Article 15*

#### **Service on the debtor's representatives**

Service pursuant to Articles 13 or 14 may also have been effected on a debtor's representative.

#### *Article 16*

#### **Provision to the debtor of due information about the claim**

In order to ensure that the debtor was provided with due information about the claim, the document instituting the proceedings or the equivalent document must have contained the following:

- (a) the names and the addresses of the parties;
- (b) the amount of the claim;
- (c) if interest on the claim is sought, the interest rate and the period for which interest is sought unless statutory interest is automatically added to the principal under the law of the Member State of origin;
- (d) a statement of the reason for the claim.

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### *Article 17*

#### **Provision to the debtor of due information about the procedural steps necessary to contest the claim**

The following must have been clearly stated in or together with the document instituting the proceedings, the equivalent document or any summons to a court hearing:

- (a) the procedural requirements for contesting the claim, including the time limit for contesting the claim in writing or the time for the court hearing, as applicable, the name and the address of the institution to which to respond or before which to appear, as applicable, and whether it is mandatory to be represented by a lawyer;
- (b) the consequences of an absence of objection or default of appearance, in particular, where applicable, the possibility that a judgment may be given or enforced against the debtor and the liability for costs related to the court proceedings.

### *Article 18*

#### **Cure of non-compliance with minimum standards**

1 If the proceedings in the Member State of origin did not meet the procedural requirements as set out in Articles 13 to 17, such non-compliance shall be cured and a judgment may be certified as a European Enforcement Order if:

- a the judgment has been served on the debtor in compliance with the requirements pursuant to Article 13 or Article 14; and
- b it was possible for the debtor to challenge the judgment by means of a full review and the debtor has been duly informed in or together with the judgment about the procedural requirements for such a challenge, including the name and address of the institution with which it must be lodged and, where applicable, the time limit for so doing; and
- c the debtor has failed to challenge the judgment in compliance with the relevant procedural requirements.

2 If the proceedings in the Member State of origin did not comply with the procedural requirements as set out in Article 13 or Article 14, such non-compliance shall be cured if it is proved by the conduct of the debtor in the court proceedings that he has personally received the document to be served in sufficient time to arrange for his defence.

### *Article 19*

#### **Minimum standards for review in exceptional cases**

1 Further to Articles 13 to 18, a judgment can only be certified as a European Enforcement Order if the debtor is entitled, under the law of the Member State of origin, to apply for a review of the judgment where:

- a (i) the document instituting the proceedings or an equivalent document or, where applicable, the summons to a court hearing, was served by one of the methods provided for in Article 14; and
- (ii) service was not effected in sufficient time to enable him to arrange for his defence, without any fault on his part;

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or

b the debtor was prevented from objecting to the claim by reason of force majeure, or due to extraordinary circumstances without any fault on his part, provided in either case that he acts promptly.

2 This Article is without prejudice to the possibility for Member States to grant access to a review of the judgment under more generous conditions than those mentioned in paragraph 1.

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