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civil and commercial matters
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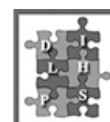
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Collection of Luxembourg implementing rules

A. Luxembourg

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I. General implementation strategy

Luxembourg has enacted several implementation laws.

In this introduction, discussing the general implementation strategy, some general remarks are made regarding these implementation laws and regarding accessibility.

The implementation laws can all be found online on the sites of www.legilux.lu¹ and <https://justice.public.lu/fr/legislation.html>.² Also the corresponding “projets de loi” are available online.

Moreover, two other sources of information that are generally indicated as being very helpful for information about the targeted regulations, are also accessible online, namely: the document “coopération judiciaire” available on the legilux-site³, and information as included in “Recouvrir ses créances à l'étranger”⁴ on the guichet-site. The foregoing sites are sites *with* links to forms (forms in German, French and English) and to the ejustice Portal.

Additionally, several other sources are available regarding the implementation of the targeted regulations in Luxembourg. Reference might be made here to, inter alia: several books;⁵ a

¹ See e.g. for the below-mentioned Nouveau Code de Procédure Civile http://legilux.public.lu/eli/etat/leg/code/procedure_civile/20190824

² See e.g. for the below-mentioned loi sur l'organisation judiciaire <https://justice.public.lu/fr/legislation/textes-organisation-judiciaire.html>

³ http://data.legilux.public.lu/file/eli-etat-leg-code-cooperation_judiciaire-20170901-fr-pdf.pdf

The current version is entitled “Coopération judiciaire en matière civile et commerciale au sein de l'Union européenne”, Ministère de la Justice Luxembourg 2017 – “version applicable au 1 Sept 2017” (in J.-Cl. Wiwinius, *Le droit international privé au Grand-Duché de Luxembourg*, Luxembourg, Bauler, 2011, p. 364 footnote 1168, reference is made to the previous version of the document, dated 2009: at that time, in 2011, the version as published in 2009 of the document was the last version). The document includes information on the Brussels 1 bis Regulation, EEOR, EPOR, ESCPR, EAPOR – so, all of the targeted regulations. It includes links to the regulations themselves (consolidated versions), links to “formulaire (à télécharger)”, links to the communication of Luxembourg and other Member states as available on the ejustice Portal.

⁴ <https://guichet.public.lu/fr/entreprises/gestion-juridique-comptabilite/contentieux/recouvrement/recouvrer-creances-etranger.html> «Recouvrer ses créances à l'étranger» including information on EEOR, EPOR, ESCPR including links to ejustice, to Centre européen des consommateurs Luxembourg (small claims) Including links to forms (à télécharger), several languages. On this guichet-site, particular information regarding the ESCPR e.g. is also available on <https://guichet.public.lu/en/citoyens/citoyennete/voies-recours-reglement-litiges/procedure-europeenne/procedure-UE-petits-litiges.html>

⁵ See i.a. the following books: S. Menétrey, *Procédure civile Luxembourgeoise*, Bruxelles, Larcier, 2016; G. Cuniberti, *Code de droit international privé Luxembourgeois*, Bertrange, Legitech, 2018; J.-Cl. Wiwinius, *Le droit international privé au Grand-Duché de Luxembourg*, Luxembourg, Bauler, 2011; Th. Hoscheit, *Le droit judiciaire privé au Grand-Duché de Luxembourg*, Luxembourg, Editions Paul Bauler, 2019. In some books – see particularly the treatise of Th.



previous MPI study on Mutual Trust and the Circulation of Judgments,⁶ the research of the MPI as carried out within the project IC2BE,⁷ a recent report on the Brussels 1 bis Regulation,⁸ the PhD of Vincent Richard⁹ - all of them including information on Luxembourg; of course, when consulting them, attention should be paid to changes that might have occurred afterwards.

In some of these sources, more information can, inter alia, be found also on rules of enforcement as in force in Luxembourg. Regarding enforcement it is noteworthy to mention here, as a general remark regarding enforcement in Luxembourg, that the Luxembourgish Nouveau Code de Procédure Civile contains in its first part, in its seventh book, Title VI (articles 677 to 692), Chapter three, a Section entitled “Des décisions étrangères soumises à un acte communautaire prévoyant la suppression de l'exequatur.” Regarding the regulations targeted in this report, reference will be made to articles in this Section, namely articles 685, paragraph 4 and following of the Nouveau Code de Procédure Civile, as being particularly relevant regarding “incoming” decisions based on the targeted regulations and the way these are dealt with in Luxembourg. These articles were introduced by several laws that will be mentioned hereafter, with each of the regulations.

The Nouveau Code de Procédure Civile was also amended by several laws that have created new rules in this code regarding EPO and ESCP procedures in Luxembourg itself.

As listed here in a short over-all view, this report will indicate and discuss below the following laws as the main laws that have implemented the regulations, mainly by amending the Luxembourgish Nouveau Code de Procédure Civile – the resulting articles in this Luxembourgish Nouveau Code de Procédure Civile or in other Luxembourgish legislation will be indicated below in the report, with each of the regulations:

Hoscheit – real schemes about EPOR and ESCPR are included. See also for a collection of all relevant legislation G. Cuniberti, *Code de droit international privé Luxembourgeois*, Windhof, Larcier Promoculture, 2018.

⁶ See the MPI study available at <https://op.europa.eu/en/publication-detail/-/publication/531ef49a-9768-11e7-b92d-01aa75ed71a1>, including information regarding Luxembourg.

⁷ See the IC2BE research. See on IC2BE i.a. <https://www.mpi.lu/research/departement-of-european-and-comparative-procedural-law/research-projects/ic2be-project/> and <https://www.uantwerpen.be/en/projects/ic2be/> and the book T. Kruger and J. von Hein (eds.), *Informed Choices in Cross-Border Enforcement*, Cambridge, Intersentia, 2021, including a chapter on Luxembourg.

⁸ See the report on the Brussels 1 bis Regulation as available on www.notaries-of-europe.eu/files/publications/Rapport-BruxIBis.pdf

⁹ The PhD is available online at <https://tel.archives-ouvertes.fr/tel-02519727>)



Regarding the Brussels 1 bis Regulation: **Loi 1 avril 2015**

Regarding EEOR: **Loi 13 mars 2009**

Regarding EPOR: **Loi 13 mars 2009** (creating a new chapter regarding EPO in Luxembourg (“Chapitre III. Procédure européenne d’injonction de payer”) in the first title of Book One of the first part of the Luxembourgish Nouveau Code de Procédure Civile) and **Loi 15 mai 2018**

Regarding ESCPR: **Loi 13 mars 2009** (creating a new title regarding ESCPR in Luxembourg (“Titre VIII “De la procédure européenne du règlement des petits litiges”) in Book two of the first part of the Luxembourgish Nouveau Code de Procédure Civile) and **Loi 15 mai 2018**

Regarding EAPOR: Loi 17 mai 2017 and Loi 18 juillet 2018

When discussing these and other laws, reference will be made to several of the above-mentioned sources that were consulted when preparing this report and that might be useful for further information. As already mentioned, most of these sources are freely online accessible.

Below, for each of the regulations, specific information regarding the implementation in Luxembourg is provided.

After the discussion below of the implementation of each of the regulations, general concluding remarks will be made in the last part of this report.

In the conclusions, an additional remark will be made on the legislation regarding the Luxembourgish special procedure (ordonnance de paiement, “OPA”), being legislation that as such is not an implementation of the regulations, but being legislation in national law that might influence the use of some of the regulations targeted in this report.

In the annex, resulting articles in the Luxembourgish code(s) of the changes made by the above-mentioned Law - as being laws that have amended Luxembourgish legislation, especially by amendments of the Luxembourgish Nouveau Code de Procédure Civile - are copied: the most relevant articles are copied below in the annex.



II. Brussels I bis Regulation

1. Competent court or authority and procedure for issuance of certificates (outgoing)

cf. Art. 53 and 60 Brussels 1 bis Regulation

The relevant articles are article 87 loi sur l'organisation judiciaire and article 1 loi relative à l'organisation du notariat.

The loi modifiée du 7 mars 1980 sur l'organisation judiciaire as well as the loi modifiée du 9 décembre 1976 relative à l'organisation du notariat were amended by the loi 13 mars 2009. In the projet de loi, it was mentioned that the rules regarding who may certify were not clear and that thus, in order to create more legal certainty, modification in the sense of clarification was needed.¹⁰ In this projet de loi, the Brussels 1 bis Regulation was not mentioned, as at the time Brussels 1 was still in force. The Brussels 1 regulation, being the predecessor of the Brussels 1 bis Regulation, was however mentioned in the projet de loi together with several other regulations such as the EEOR, making it logical that article 87 loi sur organisation judiciaire is now the relevant article also regarding the Brussels 1 bis Regulation. Article 87 loi sur organisation judiciaire refers to the “greffier en chef.”

2. Competent court or authority and procedure for the enforcement of foreign titles (incoming)

cf. Art. 44 (2), 45 (4), 47 (1), 54 (2)

The relevant article is article 685-4 Nouveau Code de Procédure Civile, as introduced in this Code by the Loi 1 avril 2015. Article 685-4 Nouveau Code de Procédure Civile refers to the président du tribunal d'arrondissement (the presiding judge of the district court) and regulates further modalities.

¹⁰ Concerns about the need to clarify were expressed in the projet de loi. See e.g., regarding the intention to amend the loi modifiée du 7 mars 1980 sur l'organisation judiciaire “En ce qui concerne les décisions judiciaires, la pratique n'est pas uniforme à l'heure actuelle: Selon les juridictions, la certification est effectuée soit par un magistrat, soit par un greffier. Cela a donné lieu à des interrogations et des doutes de la part des autorités étrangères quant à la validité des certificats luxembourgeois. Le projet de loi vise à compléter la loi modifiée du 7 mars 1980 sur l'organisation judiciaire, avec pour objectif de clarifier les compétences au sein des juridictions.”



In the projet de loi,¹¹ concerns about “consistency and readability” were expressed: the need of creating “cohérence et lisibilité” (coherency and readability) was emphasized, as a reason to introduce this article regarding, particularly, the Brussels 1 bis Regulation in the title “Foreign decisions subject to EU legislation abolishing exequatur” of the Nouveau Code de Procédure Civile.

3. Other implementation rules

(In the introduction of this report, some general remarks have already been made about enforcement rules in Luxembourg, particularly also referring to a recent study¹² including information on the Brussels 1 bis Regulation, also with regard to Luxembourg)

4. Critical assessment

When the Brussels 1 bis Regulation entered into force, a “article unique” (Article 685-4) was created in the Nouveau Code de Procédure Civile by the Loi 1 avril 2015. In the corresponding projet de loi, concerns were expressed about coherency and readability as reasons to legislate and to create this particular article in the Nouveau Code de Procédure Civile.

Note: a recent study, freely accessible at www.notaries-of-europe.eu¹³ provides further information regarding the operation of the Brussels 1 bis Regulation in Luxembourg in comparison to other Member States.

¹¹ See e.g. in the projet de loi: “Le Gouvernement propose l’inscription du Règlement en cause au Nouveau Code de procédure civile afin de garantir la cohérence et la lisibilité de ce Code qui porte inscription de tous les Règlements communautaires dans le domaine de la coopération judiciaire civile”; “Il est proposé de compléter le Nouveau Code de procédure civile par un article 685-4 nouveau afin d’y ajouter la référence au Règlement (UE) n° 1215/2012 du Parlement européen et du Conseil du 12 décembre 2012 concernant la compétence judiciaire, la reconnaissance et l’exécution des décisions en matière civile et commerciale de sorte à garantir une meilleure lisibilité de tous les Règlements communautaires dans le domaine de la coopération judiciaire civile. Le Gouvernement propose donc l’introduction de ce nouvel article 685-4 dans un souci de cohérence.”

¹² See the above-mentioned report on the Brussels 1 bis Regulation as available on www.notaries-of-europe.eu/files/publications/Rapport-BruxIBis.pdf

¹³ <http://www.notaries-of-europe.eu/files/publications/Rapport-BruxIBis.pdf>



III. European Enforcement Order Regulation (EEOR)

1. Competent authority for (re-)issuance and suspension of the EEO (outgoing)

issuing: cf. Art. 6 (1), 9 (1), 24 (1), 25 (1) EEOR; suspending: cf. Art. 6 (2) EEOR; reissuing: cf. Art. 6 (3) EEOR; specialization or concentration?

Article 87 loi organisation judiciaire and article 1 loi relative à l'organisation du notariat, as already mentioned with the Brussels 1 bis Regulation, are also the relevant articles regarding EEOR.

As also already mentioned with the Brussels 1 bis Regulation, in the projet de loi of the Loi 13 mars 2009 (that was essentially dealing with the EPOR and the ESCPR), whereas discussing the amendment of the loi modifiée du 7 mars 1980 sur l'organisation judiciaire, the EEOR was mentioned as one of the relevant regulations.

Regarding the EEOR, a special remark may be made in this regard, given what the CJEU ruled in the case *Imtech Marine* (C-300/14): as article 87 loi sur l'organisation judiciaire is not referring itself explicitly to a judge, questions can be raised as to the compatibility of these wordings with the ruling of the CJEU.¹⁴ Thus, on the one hand, the wording of article 87 loi sur l'organisation judiciaire might raise questions; on the other hand, as it was reported in the research for the IC2BE project, it appears that in practice – a practice dating already from the period before CJEU *Imtech Marine* - the certification in Luxembourg is a shared task between the chief clerk and the judge: in practice, the judge appears to be always involved in the process of certification of EEO's.

2. Procedural rules on (re-)issuance and suspension of the EEO

e.g. hearing of the debtor, service to the debtor, remedies for the creditor in case of refusal

No special remarks.

3. Procedural rules on rectification or withdrawal of the EEO

cf. Art. 10 (2) EEOR

¹⁴ See on this V. Richard, PhD, p. 453 and following (also in comparison with the French legislative intervention after CJEU *Imtech Marine*).



Regarding the modalities of a request for, particularly, a withdrawal of the EEO, the ejustice Portal only mentions: “Procédures de rectification et de retrait (art. 10(2)): La rectification et le retrait de certificats au sens de l’article 10, paragraphe 2, du règlement (CE) n° 805/2004 s’effectuent par l’introduction d’une demande expresse au greffe de la juridiction d’origine au moyen du formulaire type figurant à l’annexe VI du règlement, conformément aux pratiques administratives”, thus only referring to “pratiques administratives.”

4. Rules on service

cf. Art. 13, 14, 15 EEOR, e.g. standard forms, competent service person, exclusion of national forms of service (cf. Art. 14(2) EEOR, CJEU, 15.03.2012, C-292/10)

No special remarks

5. Possibilities for review under Art. 19 (1) and (2) EEOR

Regarding possibilities for review under Art. 19 (1) and (2), it appears that the general review mechanisms under national law are applied and are considered as meeting the minimum standards of Article 19 EEOR.¹⁵

6. Competent authority and procedure for refusal, or stay or limitation of enforcement (incoming)

cf. Art. 21, 23 EEOR, e.g. remedies and hearings, specialization or concentration?

In the section of the Nouveau Code de Procédure Civile entitled “Foreign decisions subject to EU legislation abolishing exequatur”, *no* particular article can be found regarding the EEOR, whereas regarding other regulations articles have been introduced regulating modalities of enforcement of incoming decisions.

7. Costs for the issuance of an EEO

if any, please provide the relation to comparable costs of national enforcement orders

¹⁵ See the information on the ejustice Portal, see also the MPI study available at <https://op.europa.eu/en/publication-detail/-/publication/531ef49a-9768-11e7-b92d-01aa75ed71a1>, nr. 818 and V. Richard, PhD p. 495 and following.



No special remarks

8. Other implementation rules

9. Critical assessment

Regarding outgoing EEO, article 87 loi sur l'organisation judiciaire as introduced by the loi 13 mars 2009 is a crucial article. The loi 13 mars 2009 was essentially dealing with the EPOR and the ESCPR, but in the projet de loi where this article 87 loi organisation judiciaire was discussed, EEOR was also mentioned.

In literature, remarks have been made on the wording of article 87 loi sur l'organisation judiciaire, given the ruling of the CJEU in *Imtech Marine*. In practice, though, article 87 loi sur l'organisation judiciaire appears to be applied in the sense that besides the Chief Clerk also a judge is always involved.

Regarding the modalities of requests for a review of an EEO, the ejustice Portal only refers to “pratiques administratives.” One might compare this reference with the information provided by Luxembourg on the ejustice Portal regarding a request for review in the context of the *ESCPR*,¹⁶ as well as the *legislation* regarding modalities of review in the context of the *ESCPR* as enshrined in the *Nouveau Code de Procédure Civile* – both providing quite detailed information.

Regarding incoming EEO, *no* particular article has been introduced in the special section of the *Nouveau Code de Procédure Civile* regarding “Foreign decisions subject to EU legislation abolishing exequatur”, whereas this has been done regarding other regulations.

Thus, all in all, especially when compared to other regulations, no much detailed/explicit information is provided neither on the ejustice Portal, nor in the legislation itself, regarding EEOR.

Note: regarding the application and the operation of the EEOR in Luxembourg, it might be recalled that a report¹⁷ has been published on the operation of the Brussels 1 bis Regulation

¹⁶ See on this V. Richard, comparing thereby Luxembourg with several other countries studied, and leading to a positive assessment of the information provided by Luxembourg in the context of the *ESCPR*.

¹⁷ <http://www.notaries-of-europe.eu/files/publications/Rapport-BruxlBis.pdf>



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including information on Luxembourg, and including also some information on the operation of the EEOR in Luxembourg.



IV. European Payment Order Regulation (EPOR)

1. National distribution of competences under Art. 6 EPOR

specialization or concentration?

The crucial rules regarding the operation of EPOR in Luxembourg are enshrined in articles 49 and following of the Nouveau Code de Procédure Civile.

Here, the competent courts are indicated. No concentration has been organised. As distinctions are made depending on the nature of the case and the amount at stake, three different instances have jurisdiction to issue a European Payment Order: the presiding judge of the district court where the order exceeds 10.000 euro, the justice of the peace where the order does not exceed 10.000 euro, the presiding judge of the labour court for disputes relating to particular matters.

2. Sanctions under Art. 7 (3) EPOR

The relevant article can be found in article 49-5 Nouveau Code de Procédure Civile, as quoted in the annex.

3. Means of communication

cf. Art. 7 (5), (6) and Art. 16 (4), (5) EPOR; please bear in mind the Report on the digitalization of enforcement procedures (D3.17)

In Luxembourg, applications for a European Order may be addressed at the court by post (postal delivery) or in person (dépôt au greffe). No costs are to be paid at this stage.

Regarding oppositions, also the form for opposition might be sent by post (“courrier simple”) or in person (“dépôt direct du formulaire au greffe”), also without any cost.

A process of digitalization is currently going on.

Officially, Luxembourg only accepts French and German, but as mentioned below with the ESCPR, in practice sometimes also English appears to be accepted.

4. Rules on service and verification by courts pursuant to Art. 12 (5) EPOR

cf. Art. 13, 14, 15 EPOR, e.g. standard forms, competent service person, exclusion of national forms of service (cf. Art. 14(2) EPOR, CJEU, 15.03.2012, C-292/10)



In Luxembourg, the EPO is served by post: the service of the EPO in Luxembourg is made by registered letter with acknowledgment of receipt. Thus, it was reported in the IC2BE research.¹⁸

Two remarks may be made in this regard, firstly regarding the interaction of this practice with the domestic special procedure, secondly regarding the criticism that appears to exist on this practice.

Firstly, it might be noted that for the Luxembourgish special payment procedure (the “Ordonnance de paiement”, OPA), a special rule regarding service of the payment order is foreseen in the Nouveau Code de Procédure Civile, while this is not the case for the European payment orders. Reference might be made here to the PhD of Vincent Richard¹⁹, discussing the service in Luxembourg of payment orders that are based on the domestic special procedure as compared with the service of European payment orders. Regarding the national payment orders, article 133 Nouveau Code de Procédure Civile includes the sentence “Cette ordonnance sera délivrée sur papier libre et signifiée au débiteur avec la copie de la demande.” For the European Order of Payment, there is no particular rule to be found in the Nouveau Code de Procédure Civile regarding the issue of service of the order. Noteworthy is, namely, the part of the PhD of Vincent Richard where he writes: “La Belgique et le Luxembourg n’ont adopté aucune mesure spécifique sur cette question, tandis que le droit anglais se contente d’une disposition générale selon laquelle la notification est effectuée conformément au droit national dans le silence du règlement. Ce renvoi général au droit national n’est pas simple à interpréter puisque ces droits nationaux acceptent plusieurs méthodes de notification et il faut notamment rappeler que les trois droits civilistes étudiés prévoient une règle particulière pour la notification des injonctions de payer qui doit impérativement prendre la forme d’une signification. Or, il nous semble qu’en l’absence de précision, il n’est pas possible d’appliquer cette règle relative aux injonctions de payer nationales à la procédure d’injonction de payer européenne, et il faut donc se référer aux règles générales d’introduction de l’instance, ce qui signifie que l’injonction de payer peut tout à fait être notifiée (et non signifiée) en droits belge et luxembourgeois. Cela sera notamment le cas si elle est rendue par les tribunaux du travail de l’un de ces États puisque la procédure normale ne prévoit qu’une notification. Devant les tribunaux ordinaires, la

¹⁸ See the chapter on Luxembourg in T Kruger and J. von Hein (eds.), *Informed Choices in Cross-Border Enforcement*, Cambridge, Intersentia, 2021 p. 280-281.

¹⁹ See V. Richard, PhD, p. 475 and following.



jurisdiction a le choix de signifier, ou de notifier, les documents puisque l'instance est introduite par requête.”

Secondly, it is noteworthy that during the IC2BE research a lot of criticism has been reported on the practice of serving the EPO by registered letter with acknowledgment of receipt in Luxembourg, especially when looking from the perspective of the protection of the defendant. This criticism was expressed by several actors and was brought forward in several interviews that were conducted in the context of IC2BE.²⁰

5. Rules on opposition to and review of the EPO (outgoing)

cf. Art. 16, 17, 20 EPOR (cf. CJEU, 21.03.2013, C-324/12, ECLI:EU:C:2013:205 – Novontech-Zala)

The articles of the Nouveau Code de Procédure Civile regarding EPOR regulate issues of opposition to and review of the EPO in its articles, see particularly article 49-1 as quoted in the annex.²¹

6. Competent authority and procedure for refusal, or stay or limitation of enforcement (incoming)

cf. Art. 22, 23 EPOR, e.g. remedies and hearings, specialization or concentration?

A new article 685-6 Nouveau Code de Procédure Civile regarding incoming EPO (and, at the same time, ESCP) was introduced in the Nouveau Code de Procédure Civile by the Loi 15 mai 2018. (Only) at that moment,²² the Luxembourgish legislator considered that it would be appropriate not only paying attention in a legislative way to EPO-procedures carried out in Luxembourg itself, but also to incoming EPO.

²⁰ See the chapter on Luxembourg in T. Kruger and J. von Hein (eds.), *Informed Choices in Cross-Border Enforcement*, Cambridge, Intersentia, 2021 p. 281 and 300.

²¹ For a critical note on what is mentioned on the ejustice Portal in this regard, see V. Richard, p. 498 whereas he writes “Droit national et réexamen de l’IPE. L’examen des déclarations faites par les États membres à la Commission entraîne le même constat que pour le TEE, c’est-à-dire que les législateurs nationaux n’ont que très rarement pris ces obligations au sérieux. Pour le réexamen de l’injonction de payer européenne, le législateur français renvoie à la procédure d’opposition; le législateur luxembourgeois indique quelles sont les autorités compétentes pour l’opposition et le réexamen sans préciser de procédure particulière. Aucun de ces États ne mentionne l’existence d’une possibilité de demander à être relevé de la forclusion résultant de l’expiration du délai d’opposition, alors que c’est à cette procédure que correspond fonctionnellement le réexamen.”

²² The Loi 15 mai 2018 was the *second* loi on EPOR and ESCPR.



The newly created article is quoted in the annex.

7. Remedies under national law in cases such as CJEU, C-119/13 and C-120/13

cf. also Art. 19 (2) EPOR

National case law has solved the issue of CJEU *Eco Cosmetics* in Luxembourg: regarding the CJEU case law on the situation as occurred in the *Eco Cosmetics* case, there is a decision of the District Court of Luxembourg (Tribunal d'arrondissement de Luxembourg) that has dealt with this particular situation in Luxembourg. In its decision dated 21 March 2017,²³ the Tribunal d'arrondissement de Luxembourg – confronted with a similar situation as in the case *Eco Cosmetics*, referring in its decision also explicitly to the decision of the CJEU – considered that an appeal against an enforceable European Order for Payment is not expressly provided for in domestic law, but that under article 578 of the Nouveau Code de Procédure Civile, the appeal is open in all matters against first instance judgments, unless declared otherwise. The court concluded that it must therefore be admitted that the appeal is open against the European Order for Payment; appeal was, thus, declared admissible. The declaration of the Juge de Paix of April 2016, noting the enforceability of the European Order for Payment of March 2016, was declared null and void.

During interviews that were conducted in the context of IC2BE, several interviewees expressed their preference for having this case law included in legislation: they suggested not to leave the solution purely in case law, because of reasons of accessibility, in order to make it more transparent.

At this moment, the case law is not (yet) included in legislation, but in any case the case law is mentioned in recent literature, namely in the treatise of Luxembourgish procedural law of Thierry Hoscheit.²⁴

8. Costs for the issuance of the EPO

if any, please provide the relation to comparable costs in the national legal order

No court fees are to be paid in Luxembourg.

²³ Tribunal d'arrondissement de Luxembourg, 14e ch 21 Mars 2017, N° 178460 du role, N° 78/2017, Journal Tribunaux 2018, p. 28-30.

²⁴ Th. Hoscheit, *Le droit judiciaire privé au Grand-Duché de Luxembourg*, Luxembourg, Editions Paul Bauler, 2019, nr. 673, explicitly referring to the decision of the Tribunal d'arrondissement Luxembourg.



Note: and, as mentioned above, the EPO is served by post in Luxembourg, thus in principle *not* involving bailiffs.

9. Other implementation rules

The first act on EPOR and ESCPR – the Loi 13 mars 2009 - introduced several articles in the Nouveau Code de Procédure Civile, amended the loi modifiée du 7 mars 1980 sur l'organisation judiciaire regarding article 87, and touched also the issue of the *cautio judicatum solvi* in the Code Civil.

As said, the second act – the Loi 15 mai 2018 – created article 685-5 Nouveau Code de Procédure Civile regarding incoming EPO. This second act also made some amendments to the section that had already been created by the first act (amending, namely article 49-3 and article 49-6 of the Nouveau Code de Procédure Civile). At that moment, amendments had been made to the regulations themselves and amendments such as regarding the “transfer” into an ESCP made it appropriate to legislate.

10. Critical assessment

The implementation of EPOR in Luxembourg essentially took place by two laws: the Loi 13 mars 2009 and the Loi 15 mai 2018.

The first act introduced a new chapter in the Nouveau Code de Procédure Civile, entitled “Chapitre III. Procédure européenne d’injonction de payer” (articles 49 and following of the Nouveau Code de Procédure Civile). It also amended some other laws, namely the loi modifiée du 7 mars 1980 sur l'organisation judiciaire (see article 87 loi sur l'organisation judiciaire) and the loi relative à l'organisation du notariat (article 1 relative à l'organisation du notariat), and touched the issue of the *cautio judicatum solvi* in the Code civil.

The second act made some amendments to the above-mentioned – essentially following amendments that were made the Regulation itself -, and created a new article 685-6 in the Nouveau Code de Procédure Civile regarding incoming EPO. In the loi de projet, it was mentioned: “Les articles du NCPC ne prévoient actuellement que les compétences et les procédures pour délivrer des décisions relatives aux *“petits litiges européens”* et des injonctions de payer européennes au Luxembourg. Or, *il faut prévoir de même des règles de compétence et de procédure qui s'appliquent lorsqu'une décision étrangère doit être exécutée au Luxembourg et la personne à l'encontre de laquelle l'exécution est demandée s'y oppose au Luxembourg en demandant un refus d'exécution.* La juridiction compétente au Luxembourg peut de même suspendre l'exécution d'une décision, la limiter ou la subordonner à la constitution d'une sureté, lorsque la personne à



l'encontre de laquelle l'exécution est demandée a fait un recours ou a demandé le réexamen de la décision en question.”²⁵ Thus, only in the second act a particular article regarding incoming EPO was created, but in any case at that time it was made clear in legislation how to deal with incoming EPO.

National case law has provided for a solution for the issue that came forward in CJEU *Eco Cosmetics* – whereby the CJEU referred to solutions that should be found in national law. The solution as given by the Luxembourgish Tribunal d'arrondissement in its decision of 21 mars 2017 has not been incorporated in legislation, but is mentioned in recent Luxembourgish literature, see namely the treatise of Thierry Hoscheit, which is also more in general useful as a source of information on the operation of the EPOR in Luxembourg.

²⁵ Italics made by the author (vvde).



V. European Small Claims Procedure Regulation (ESCPR)

1. Competent court

cf. Art. 4 (1) and Art. 20 (2) ESCPR: local jurisdiction, jurisdiction *ratione materiae*, specialization or concentration?

In Luxembourg, the justice of the peace (“juge de paix”) is competent to deal with the ESCP. This is enshrined in article 143 Nouveau Code de Procédure Civile, as introduced in the Code by the Loi 13 mars 2009: the courts with jurisdiction to give the judgments referred to by the Regulation are the courts of the justices of the peace. On the one hand, in the sense that the juge de Paix of Luxembourg, the juge de Paix of Diekirch and the juge de Paix of Esch-sur-Alzette may be competent, no centralisation has been organized. On the other hand, the juges de paix are the only competent jurisdictions for ESCP in Luxembourg: thus, jurisdiction is reserved for a “certain category of courts.”²⁶

Noteworthy is that the second law implementing the ESCPR in Luxembourg – the Loi 15 mai 2018 - has amended article 143 Nouveau Code de Procédure Civile: as the ESCP Regulation was amended *inter alia* by raising the threshold from 2000 to 5000 euro, the issue of appeal came forward in Luxembourg in the projet de loi of the Loi 15 mai 2018. The Loi 15 mai 2018 amended article 143 Nouveau Code de Procédure Civile in the sense of ruling in a newly created second paragraph about the possibility and modalities of appeal in ESCP.²⁷ As from then, appeal became possible regarding an ESCP if the amount at issue exceeded 2000 euro.

2. Means of communication

cf. Art. 4 (1), 8, 13 ESCPR; please bear in mind the Report on the digitalization of enforcement procedures (D3.17)

²⁶ See on this the MPI Luxembourg study available at <https://op.europa.eu/en/publication-detail/-/publication/531ef49a-9768-11e7-b92d-01aa75ed71a1>, nr. 854, discussing different approaches of Member States, and indicating Luxembourg – where (only) the justice of the peace is competent for ESCP – as a country whereby competence is retained by a certain category of courts.

²⁷ See on this *i.a.* Th. Hoscheit, *Le droit judiciaire privé au Grand-Duché de Luxembourg*, Luxembourg, Editions Paul Bauler, p. 404, footnote 718 and the projets de loi of the first and the second loi (in the projet de loi of the first loi, it was not assessed appropriate to organize a possibility for appeal regarding an ESCP). See also on this the information as provided on the ejustice Portal.



Luxembourg accepts filings in person (whereby the application is delivered to the clerk office) as well as postal mail (postal delivery) as means of communication. No court fees exist.

Regarding the language, (only) French and German are the officially accepted languages in Luxembourg.²⁸ In practice though, as was reported in IC2BE, sometimes English is accepted; sometimes one can submit the documents in English and the judges accept these without translation.²⁹

Regarding the issue of digitalization, it might be noted that digitalization is still in process in Luxembourg.

3. Procedure for claims outside the scope of the ESCPR

cf. Art. 4 (3) ESCPR

The newly created article 143 Nouveau Code de Procédure Civile, as amended afterwards by the second loi, is the article that provides rules for ESCPR in Luxembourg. The article contains several specifications regarding particular aspects of the ESCPR; it does not provide a particular rule regarding the procedure for claims falling outside of the scope of the ESCPR.

4. Costs and distribution of costs

cf. Art. 15a and 16 ESCPR: if any, please provide the relation to comparable costs in the national legal order; distribution of costs in cases where one party is only partly successful/not wholly successful (cf. CJEU, 14.02.2019, C-554/17)

There are *no* court fees in Luxembourg.

As there are no court fees in Luxembourg, one cannot claim those from the defendant. However, some (other) costs might be claimed³⁰ – on this issue, there are several cases,

²⁸ This is also what is mentioned on the ejustice Portal.

²⁹ See the chapter on Luxembourg in T. Kruger and J. von Hein (eds.), *Informed Choices in Cross-Border Enforcement*, Cambridge, Intersentia, 2021 p. 278-279.

³⁰ As mentioned also on the ejustice Portal, announcing “In Luxembourg, no court fees are paid to the competent court under the European Small Claims Procedure. However, following a judgment, court fees may be incurred in relation to the enforcement of the decision, at the request of the successful party” (whereby the ejustice Portal also includes information on costs made by bailiffs).



including discussions on what was “indispensable” for the claimant to do and what is not, as only what is indispensable can be requested.³¹

5. Competent court and procedure for refusal, or stay or limitation of enforcement (incoming)

cf. Art. 22, 23 ESCPR, e.g. remedies and hearings, specialization or concentration?

The *second* law on the implementation of the ESCPR in Luxembourg – the Loi 15 mai 2018 – introduced an article in the Nouveau Code de Procédure Civile particularly for incoming ESCP.³²

The therefrom resulting article 685-6 Nouveau Code de Procédure Civile is quoted in the annex.

6. Other implementation rules

7. Critical assessment

The crucial articles regarding the ESCPR in Luxembourg are articles 143-1 and 143-2 of the Nouveau Code de Procédure Civile for ESCP in Luxembourg itself, and article 685-6 of the Nouveau Code de Procédure Civile for incoming ESCP.

As was already mentioned above, the ESCPR was implemented in Luxembourg by two subsequent Lois: the first loi - the Loi 13 mars 2009 – introduced article 143 in the Nouveau Code de Procédure Civile, together with amendments of the loi sur l’organisation judiciaire (article 87 of the loi sur l’organisation judiciaire) and the loi à l’organisation notariat (article 1 of this loi), and the code civil regarding the cautio judicatum solvi; the second loi – the Loi 15 mai 2018 - amended article 143 Nouveau Code de Procédure Civile (namely by amending the article regarding possibilities of appeal and the modalities thereof (indicating the old article 143 now as 143-1), and by creating an article 143-2 especially regarding review of

³¹ As was also already indicated in the extensive IC2BE-report on the ESCPR in Luxembourg. See e.g. Justice de Paix de Luxembourg, 15 May 2014, n°2055A/2014; Justice de Paix de Luxembourg, 6 January 2015, n°19/15; Justice de Paix de Luxembourg, 28 January 2015, n°414/2015 etc. as well as, e.g. Justice de Paix de Luxembourg, 28 January 2015, n°414/2015, as cases that were referred to there.

³² And, at the same time, incoming EPO, as mentioned above.



ESCP) and introduced a new article 685-6 in the Nouveau Code de Procédure Civile regarding incoming ESCP.

The ejustice Portal provides quite extensive information on the ESCPR in Luxembourg, including e.g. on the review of ESCP in Luxembourg³³ (as regulated in article 143-2 Nouveau Code de Procédure Civile).

In part VII of this report, an additional remark will be made on the Luxembourgish special payment procedure, namely regarding a requirement existing in Luxembourgish legislation that may possibly have an impact on the use/attractiveness of the ESCPR in Luxembourg. Thereby, attention should also be paid to the fact that there are no court fees in Luxembourg, making it thus attractive to start a procedure in Luxembourg instead of in another country, if looking from this perspective.

Note: in the introduction, several references were made to sites where information is online available on the ESCPR in Luxembourg. On the site [guichet.lu](https://guichet.public.lu/en/citoyens/citoyennete/voies-recours-reglement-litiges/procedure-europeenne/procedure-UE-petits-litiges.html) – see <https://guichet.public.lu/en/citoyens/citoyennete/voies-recours-reglement-litiges/procedure-europeenne/procedure-UE-petits-litiges.html> - , information is made available, *with* explanation and forms, indicating courts as well as including a reference to the CEC Luxembourg.

³³ As appreciated in V. Richard, PhD, p. 499, comparing Luxembourg on this point with several other Member States.



VI. European Account Preservation Order Regulation (EAPOR)

(*) At the ejustice Portal, extensive information is available on most of the relevant issues of the EAPOR in Luxembourg as asked for below. Reference might, thus, be made to https://e-justice.europa.eu/content_european_account_preservation_order-379-lu-fr.do?init=true&member=1, in combination with a reference to a book that is currently in press on the EAPOR and particularly studies the application of the EAPOR in Luxembourg³⁴ and in combination with some remarks below regarding the first and the eleventh question as well as some remarks made in the part on the critical assessment of the EAPOR; in the annex a copy of the most relevant articles of the domestic Luxembourgish implementation legislation regarding the EAPOR is included: article 685-5 Nouveau Code de Procédure Civile and the other most relevant legislation regarding EAPOR is copied in the annex. Reference might also be made to that annex regarding the following questions.

Especially noteworthy hereby is that no fees are required in Luxembourg regarding article 14 on the information mechanism. There is a central authority (the National Financial Authority, CSSF) and in Luxembourg, the CSSF provides the information for free.

1. Competent court

cf. Art. 6, 10 EAPOR: local jurisdiction, jurisdiction *ratione materiae*, specialization or concentration?

The Loi 17 mai 2017 has indicated the authorities charged with the application of the EAPOR by creating a new article 685-5 in the Nouveau Code de Procédure Civile.

Article 685-5, 2 makes a distinction according to the amount at stake, indicating the *juge de paix* for cases with an amount until 10000 euro, and the *président du tribunal d'arrondissement* for cases with an amount above 10000 euro.

2. National provisions on the taking of evidence pursuant to Art. 9 EAPOR

See above (*)

³⁴ G. Cuniberti and S. Migliorini, *L'Ordonnance Européenne de Saisie Conservatoire de Compte Bancaire. Commentaire du règlement UE n° 655/2014 Belgique, France, Luxembourg*, Legitech, 2021 (in press), studying the application of the EAPOR in several countries including Luxembourg.



3. Procedure for and means of providing security under Art. 12 EAPOR

See above (*)

4. Liability of the creditor under national law

cf. Art. 13 (3), (4) EAPOR

See above (*)

5. Competent authority and methods to obtain account information

cf. Art. 14 (1), (5) EAPOR

See above (*)

6. Means of communication

cf. Art. 17 (5), 29, 36 EAPOR; please bear in mind the Report on the digitalization of enforcement procedures (D3.17)

See above (*)

7. Appeals and remedies

cf. Art. 21, 33-35, 37-39 EAPOR

See above (*)

8. Enforcement procedure

cf. Art. 23-25, 27-28 EAPOR

See above (*)

9. Liability of the bank under national law

cf. Art. 26 EAPOR

See above (*)



10. Fees and costs of courts, authorities, and banks

cf. Art. 42, 43, 44 EAPOR

See above (*)

11. Other implementation rules

The Luxembourgish legislator has demonstrated attention for the particular Luxembourgish situation with regard to the EAPOR. In the projet de loi of the second loi on the EAPOR – the Loi 18 juillet 2018 –, this was explicitly expressed. The foregoing resulted in the creation of a “Titre VII bis De la conversion de l’ordonnance européenne de saisie conservatoire des comptes bancaires en saisie exécutoire des comptes bancaires”, thus created by the Loi 18 juillet 2018, introducing a new article 718-1 in the Nouveau Code de Procédure Civile, as being the article included in this section. The article particularly regards the issue of *conversion* of EAPO in a “saisie exécutoire.” Article 718-1 Nouveau Code de Procédure Civile, as quoted in the annex, provides for the modalities of a conversion of the EAPO into an enforcement measure.

12. Critical assessment

Two acts have implemented the EAPOR in Luxembourg: firstly, the Loi 17 mai 2017, secondly the Loi 18 juillet 2018.

The first law essentially introduced a new article in the Nouveau Code de Procédure Civile, namely article 685-5 Nouveau Code de Procédure Civile.

As it was thought during the legislative preparation of the above-mentioned second Loi on the EPOR and the ESCPR that the Loi on the EAPOR would enter in force before the Loi on the EPOR and the ESCPR, the loi on the EPO and the ESCP numbered its new suggested article immediately as 685-6, thus taking into account the appropriate numbering of the articles that were being created – supposing that at the time the Loi on the EPOR and the ESCPR would enter in force, an article 685-5 would already exist. And indeed, the Loi on the EAPOR, creating a new article 685-5, entered into force first.

In this article 685-5, the competent authorities in charge of granting the preservation order and deciding on appeals against EAPO were designated.

The first law also indicated the authority in charge of gathering information on bank accounts. It allocated this task to the “Commission de Surveillance du Secteur Financier.”



The second law created article 718-1 Nouveau Code de Procédure Civile, regarding the conversion of EAPO in a “saisie exécutoire.” Article 718-1 allows creditors to convert the EAPO into an enforcement measure. As indicated above and as becomes clear from the projet de loi, when preparing this law the Luxembourgish legislator demonstrated attention for the particularities of the domestic situation of Luxembourg.



VII. Summary and overall assessment

As indicated in the introduction of this report, Luxembourg has enacted several implementation laws.

The implementation laws can all be found online on the sites of www.legilux.lu³⁵ and <https://justice.public.lu/fr/legislation.html>.³⁶ Also the corresponding “projets de loi” are available online.

Moreover, as indicated in the introduction, two other sources of information that are generally indicated as being very helpful for information about the targeted regulations, are also accessible online, namely: the document “coopération judiciaire” available on the legilux-site³⁷, and information as included in “Recouvrir ses créances à l'étranger”³⁸ on the guichet-site. The foregoing sites are sites *with* links to forms (forms in German, French and English) and to the ejustice-site.

In the introduction, reference was also made to several other sites and sources where information can be found on the implementation of the regulations in Luxembourg.

Regarding the legislation itself (the “lois”) and the legislative preparation process thereof (the “projets de lois”), concerns about accessibility and “consistency”, “transparency”, “readability” are expressed in several “projets de loi” as being reasons for the Luxembourgish legislator to rule.

The foregoing resulted in, inter alia, the introduction of several specific articles in the Nouveau Code de Procédure Civile regarding “incoming” decisions and the way these are to be treated in Luxembourg, and the introduction of specific articles, under special headings,

³⁵ See e.g. for the below-mentioned Nouveau Code de Procédure Civile http://legilux.public.lu/eli/etat/leg/code/procedure_civile/20190824

³⁶ See e.g. for the below-mentioned loi sur l'organisation judiciaire <https://justice.public.lu/fr/legislation/textes-organisation-judiciaire.html>

³⁷ http://data.legilux.public.lu/file/eli-etat-leg-code-cooperation_judiciaire-20170901-fr-pdf.pdf The current version was published in 2017. In J.-Cl. Wiwinius, *Le droit international privé au Grand-Duché de Luxembourg*, Luxembourg, Bauler, 2011, p. 364 footnote 1168, reference is made to this document (albeit to the previous version of the document, dated 2009: at that time, in 2011, the version as published in 2009 of the document was the last version).

³⁸ <https://guichet.public.lu/fr/entreprises/gestion-juridique-comptabilite/contentieux/recouvrement/recouvrer-creances-etranger.html> On this guichet-site, particular information regarding the ESCPR e.g. is also available on <https://guichet.public.lu/en/citoyens/citoyennete/voies-recours-reglement-litiges/procedure-europeenne/procedure-UE-petits-litiges.html>



in the Nouveau Code de Procédure Civile regarding European uniform procedures that are conducted in Luxembourg itself.

When it comes to issues of transparency/consistency, two remarks might be made though, firstly regarding the EPOR, secondly regarding the EEOR.

Firstly, regarding the EPOR, on the one hand, the national situation regarding the issue as came forward in CJEU *Eco Cosmetics*, has been solved in a clear way in national case law: the national solution of Luxembourg to the issue of CJEU *Eco Cosmetics* has been given and can be found in Luxembourgish case law. On the other hand, in the IC2BE project some Luxembourgish interviewees indicated that the transparency of the national solution for the hypothesis of CJEU *Eco Cosmetics* might be improved by incorporation in the Luxembourgish legislation: some interviewees suggested to incorporate the national solution, as given in case law, in national legislation, for reasons of transparency and accessibility. Currently, in any case references to the national case law are made in recent literature.³⁹

Secondly, when it comes to transparency/consistency, a remark can be made on the EEOR. As indicated in the report, no specific rules regarding the EEOR have been introduced in a special paragraph of article 685 Nouveau Code de Procédure Civile, whereas special paragraphs have been created for the Brussels 1 bis regulation, the EPOR and the ESCPR, and the EAPOR. Regarding the Brussels 1 bis Regulation, the relevant article was created by the Loi 2015 on the Brussels 1 bis Regulation), regarding EPOR and ESCPR in 2018 (only by then, in the second law on the EPO and the ESCP, but in any case at that time) a new, additional paragraph of article 685 was introduced in the nouveau code, regarding EAPO a new paragraph regarding EAPOR was introduced in 2017 (the first law on the EAPOR). Regarding “incoming” EEO, no special paragraph of article 685 has been created in this regard for the rare but conceivable issues that might emerge, when dealing with incoming EEO’s. Moreover, regarding the EEOR, two additional remarks that are made in the report might be recalled in this regard. Regarding “outgoing” EEO’s, the relevant article regarding who may certify appears to be article 87 loi sur l’organisation judiciaire – no explicit reference to the EEOR has been made in this article, but in the projet de loi of the Loi of 2009, the EEOR was mentioned in the context of this article.⁴⁰ But, as a first additional remark, regarding particular issues that may appear in this context, the ejustice Portal only refers to

³⁹ See Th. Hoscheit, Th., *Le droit judiciaire privé au Grand-Duché de Luxembourg*, Luxembourg, Editions Paul Bauler, 2019.

⁴⁰ At that time, in 2009, the Brussels 1 bis Regulation was not yet in force, but in this projet de loi, the Brussels 1 regulation was (also) mentioned, thus making it logical that article 87 is also the relevant article for the Brussels 1 bis Regulation.



the “pratiques administratives”, without further indications.⁴¹ A second additional remark concerns the issue of the consistency of the wordings of article 87 loi sur l’organisation judiciaire, referring to the “greffier en chef”, with CJEU Imtech Marine when it comes to certification of EEO’s by Luxembourgish authorities, as also presented above in the report – where it is mentioned at the same time, though, that in practice the judge appears to be involved in the certification.

Apart from the foregoing, throughout the report, several other points were indicated that are noteworthy to recall here, namely: the attention of the Luxembourgish legislator for the national situation with regard to the EAPOR, resulting in specific legislation regarding the operation of the EAPOR in Luxembourg as created by the (2018, second loi on EAPOR⁴²); the fact that in Luxembourg EPO is served by post, as compared with and positioned against the way service of Luxembourgish payment orders that are based on the Luxembourgish special procedure (the Ordonnance de Paiement, “OPA”) is regulated.⁴³

Besides, reference might be made to the points of attention as indicated above in this report, with each of the regulations.

An *additional remark* might be made here regarding particularly the EPOR and the *ESCP* in comparison to the Luxembourgish special procedure, possibly having an impact on the use of the Regulations in Luxembourg – in combination with other factors that are indicated in the IC2BE reports that also might influence the use of the regulations.⁴⁴ Noteworthy is, namely,

⁴¹ See the ejustice Portal, where it is mentioned: “Procédures de rectification et de retrait (art. 10(2)): La rectification et le retrait de certificats au sens de l’article 10, paragraphe 2, du règlement (CE) n° 805/2004 s’effectuent par l’introduction d’une demande expresse au greffe de la juridiction d’origine au moyen du formulaire type figurant à l’annexe VI du règlement, conformément aux pratiques administratives.” Regarding the communication provided by Luxembourg for the ejustice Portal, one might recall here, regarding the *ESCP*, that regarding indications on the ejustice about this *ESCP* regulation, Luxembourg appears to have provided information in a more extensive way than several other countries, particularly regarding the review procedure of the *ESCP* – see V. Richard, PhD, p. 499 comparing on this point Luxembourg with several other countries (Belgium, France, UK) that are studied in this PhD.

⁴² The loi of 2018 was the second act in Luxembourg regarding the implementation and operation of the EAPOR – another legislative intervention had already taken place in 2017.

⁴³ Particularly the comments in this regard of V. Richard in his PhD, p. 475 may be recalled her.

⁴⁴ Such as the fact that in Luxembourg there are no court fees. Regarding the way these regulations are *applied* in Luxembourgish case law – e.g. when it comes to concepts such as “consumer”, when applying the regulations, and the way this influences the use of the regulations, reference can be made to the IC2BE reports and the Efforts report on case law that will be made. cfr. Also the PowerPoint presented at the CEC Conference 2019 of B. Hess and V. Van Den Eeckhout regarding the *ESCP*, available on <https://cecluxembourg.lu/2019/06/13/7eme-conference-sur-des-aspects-du-droit-europeen-de-la-consommation-le-19-juin/>



that in the legislation regarding the above-mentioned Luxembourgish special procedure (the *Ordonnance de Paiement*, “OPA”), a requirement for application is incorporated in the *Nouveau Code de Procédure Civile* regarding the domicile of the defendant: according to article 129 and article 919 *Nouveau Code de Procédure Civile*, regarding the OPA, the defendant should be domiciled in Luxembourg. Thus, in a situation in which the defendant is domiciled abroad and the plaintiff is domiciled in Luxembourg, choosing of the European uniform procedures might make it possible to start an “easy” procedure in the plaintiff’s own country: as far as the rules on international jurisdiction of the regulations allow this, starting a European procedure in Luxembourg might be attractive, given that in some cases there is no possibility to start the Luxembourgish national procedure in Luxembourg. Taking into account the particular characteristics of a country as Luxembourg – a country with many commuters working in Luxembourg but residing in Germany, Belgium or France, against whom a Luxembourgish plaintiff might want to start a procedure – the requirement as existing for the use of the Luxembourgish special procedure might influence the use of the regulations in Luxembourg, in the sense of increasing the use of the regulations and making the use of them more attractive. In any case, as was also already stated in the IC2BE report, Luxembourg might be referred to as an interesting laboratory for the operation of the regulations, especially regarding the EPOR, the ESCPR and the EAPOR.



B. Annex: Implementation Rules

The most relevant rules are copied here:

The Brussels 1 bis Regulation

Article 685 par. 4 Nouveau Code de Procédure Civile

Article 87 loi organisation judiciaire

EEOR

Article 87 loi organisation judiciaire

EPOR

Articles 49 à 49-6 Nouveau Code de Procédure Civile

Article 685 par. 6 Nouveau Code de Procédure Civile

ESCPR

Articles 143-1 à 143-2 Nouveau Code de Procédure Civile

Article 685 par. 6 Nouveau Code de Procédure Civile

EAPOR

Article 685-5 Nouveau Code de Procédure Civile

Article 718-1 Nouveau Code de Procédure Civile (titre VII bis Nouveau Code de Procédure Civile)

Attention : the translation in English is *not* official

I. The Brussels I bis Regulation

Article 685-4 Nouveau Code de Procédure Civile (L. 1er avril 2015)	Article 685-4 New Code of Civil Procedure (L. 1 April 2015)
(1) Les décisions judiciaires en matière civile et commerciale rendues dans un État membre de l'Union européenne qui y sont	(1) Judicial decisions in civil and commercial matters rendered in a Member State of the European Union which are enforceable



<p>exécutoires et qui aux termes du règlement n° 1215/2012 du Parlement européen et du Conseil du 12 décembre 2012 concernant la compétence judiciaire, la reconnaissance et l'exécution des décisions en matière civile et commerciale, remplissent les conditions pour être reconnues et exécutées au Luxembourg, sont reconnues et exécutées dans les formes prévues par ce règlement.</p>	<p>there and which, under the terms of Regulation n° 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, fulfil the conditions for being recognised and enforced in Luxembourg, shall be recognised and enforced in the manner provided for by that Regulation.</p>
<p>(2) La demande de refus d'exécution, la demande constatant l'absence de motifs de refus de reconnaissance, la demande de refus de reconnaissance et la demande de suspension de l'exécution d'une décision étrangère sont portées devant le président du tribunal d'arrondissement siégeant comme en matière de référé.</p>	<p>(2) An application for refusal of enforcement, an application establishing that there are no grounds for refusing recognition, an application for refusal of recognition and an application for suspension of enforcement of a foreign judgment shall be brought before the President of the district court sitting as in summary proceedings.</p>
<p>(3) Un recours contre la décision du président du tribunal d'arrondissement peut être formé devant la Cour d'appel siégeant comme en matière de référé. Ce recours doit être intenté dans les formes et délais prévus en matière de référé. La décision rendue par la Cour peut faire l'objet d'un pourvoi en cassation dans les formes et délais prévus en matière civile de droit commun.</p>	<p>(3) An appeal against the decision of the president of the district court may be lodged with the Court of Appeal sitting as in summary proceedings. This appeal must be lodged in the form and within the time limits laid down for summary proceedings. The decision rendered by the Court may be appealed to the Supreme Court in the forms and time limits provided for in civil matters under general law.</p>
<p>Article 87 loi organisation judiciaire</p>	<p>Article 87 Act on Judicial Organization</p>
<p>En matière civile et commerciale, en vue de la reconnaissance et de l'exécution des décisions judiciaires rendues par les juridictions luxembourgeoises en vertu d'un acte communautaire dans le cadre de la coopération judiciaire civile de l'Union</p>	<p>In civil and commercial matters, with a view to the recognition and enforcement of judicial decisions rendered by Luxembourgish courts on the basis of a Community act within the framework of judicial cooperation in civil matters of the</p>



européenne, le greffier en chef de la juridiction qui a rendu la décision judiciaire: 1. certifie les titres exécutoires en vue de leur reconnaissance et de leur exécution dans un autre Etat membre de l'Union européenne; 2. délivre, sur demande, les titres exécutoires et certificats.	European Union, the chief clerk of the court which rendered the judicial decision shall: 1. certify enforceable titles with a view to their recognition and enforcement in another Member State of the European Union; 2. issue, on request, the enforcement orders and certificates.
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II. EEOR

Article 87 loi organisation judiciaire	Article 87 Act on Judicial Organization
En matière civile et commerciale, en vue de la reconnaissance et de l'exécution des décisions judiciaires rendues par les juridictions luxembourgeoises en vertu d'un acte communautaire dans le cadre de la coopération judiciaire civile de l'Union européenne, le greffier en chef de la juridiction qui a rendu la décision judiciaire: 1. certifie les titres exécutoires en vue de leur reconnaissance et de leur exécution dans un autre Etat membre de l'Union européenne; 2. délivre, sur demande, les titres exécutoires et certificats.	In civil and commercial matters, with a view to the recognition and enforcement of judicial decisions rendered by Luxembourgish courts on the basis of a Community act within the framework of judicial cooperation in civil matters of the European Union, the chief clerk of the court which rendered the judicial decision shall: 1. certify enforceable titles with a view to their recognition and enforcement in another Member State of the European Union; 2. issue, on request, the enforcement orders and certificates.

III. EPOR

Article 49 Code de Procédure Civile (L. 13 mars 2009)	Article 49 Code of Civil Procedure (L. 13 March 2009)
Sont compétents pour statuer sur une demande d'injonction de payer européenne,	The following authorities shall have jurisdiction to rule on an application for a



<p>visée à l'article 7 du règlement (CE) N° 1896/2006 du Parlement européen et du Conseil du 12 décembre 2006 instituant une procédure européenne d'injonction de payer:</p> <p>(1) Le président du tribunal d'arrondissement, ou le juge qui le remplace, lorsque la demande dépasse la valeur de 10.000 euros ;</p> <p>(2) Le juge de paix, lorsque la demande est d'une valeur jusqu'à 10.000 euros ;</p> <p>(3) Le président du tribunal du travail, ou le juge qui le remplace, indépendamment du montant de la demande, pour les contestations visées à l'article 25.</p>	<p>European order for payment, as referred to in Article 7 of Regulation (EC) N° 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure:</p> <p>(1) The president of the district court, or the judge who replaces him, where the claim exceeds the value of EUR 10,000;</p> <p>(2) The justice of the peace, where the claim is for a value of up to EUR 10,000;</p> <p>(3) The president of the labour court, or the judge who replaces him, irrespective of the amount of the claim, for the disputes referred to in Article 25.</p>
<p>Article 49-1 Code de Procédure Civile (L. 13 mars 2009)</p>	<p>Article 49-1 Code of Civil Procedure (L. 13 March 2009)</p>
<p>(1) L'opposition ou la demande en réexamen, visées respectivement aux article 7, paragraphe 3, du règlement (CE) N° 1896/2006, sont formées au greffe de la juridiction qui a délivré l'injonction de payer européenne.</p> <p>(2) La demande en réexamen est formée par déclaration écrite déposée au greffe par le défendeur ou par son mandataire.</p>	<p>(1) The statement of opposition or the application for review, referred to respectively in Article 7(3) of Regulation (EC) N° 1896/2006, shall be lodged at the registry of the court which issued the European order for payment.</p> <p>(2) The application for review shall be made by a written statement lodged at the registry by the defendant or his representative.</p>
<p>Article 49-2 Code de Procédure Civile (L. 13 mars 2009)</p>	<p>Article 49-2 Code of Civil Procedure (L. 13 March 2009)</p>
<p>Sont compétents pour statuer sur l'opposition et la demande en réexamen:</p> <p>(1) le tribunal d'arrondissement, lorsque l'injonction de payer européenne a été</p>	<p>The following courts are competent to rule on the opposition and the application for review:</p> <p>(1) the district court, where the European order for payment was issued by the</p>



<p>délivrée par le président du tribunal d'arrondissement, ou par le juge qui le remplace ;</p> <p>(2) le juge de paix directeur, ou le juge qui le remplace, lorsque l'injonction de payer européenne a été délivrée par un juge de paix ;</p> <p>(3) le tribunal du travail, lorsque l'injonction de payer européenne a été délivrée par le président du tribunal du travail, ou par le juge qui le remplace.</p>	<p>president of the district court, or by the judge replacing him;</p> <p>(2) the presiding justice of the peace, or the judge who replaces him, where the European order for payment has been issued by a justice of the peace;</p> <p>(3) the labour court, where the European order for payment has been issued by the president of the labour court, or by the judge who replaces him.</p>
<p>Article 49-3 Code de Procédure Civile (L. 13 mars 2009)</p>	<p>Article 49-3 Code of Civil Procedure (L. 13 March 2009)</p>
<p>(1) (L. du 15 mai 2018) En cas d'opposition, au vu de l'article 17, paragraphe 1, point b) et paragraphe 2 du règlement (CE) n° 1896/2006, tel que modifié, ou de demande en réexamen, au vu de l'article 20 du même règlement (CE) n° 1896/2006, l'application de la procédure civile nationale se fait conformément aux dispositions des paragraphes suivants :</p> <p>(2) Le greffier du tribunal d'arrondissement notifie aux parties l'obligation de constituer avocat à la cour dans un délai de quinze jours à partir de la notification.</p> <p>(3) Huit jours au moins avant l'audience, le greffier respectivement de la justice de paix et du tribunal de travail, convoque les parties à comparaître, en leur faisant connaître les jour, heure et lieu de l'audience.</p> <p>(4)</p>	<p>(1) (L. of 15 May 2018) In the event of a statement of opposition, in view of Article 17(1)(b) and (2) of Regulation (EC) N° 1896/2006, as amended, or an application for review, in view of Article 20 of the same Regulation (EC) N° 1896/2006, the application of the national civil procedure shall be made in accordance with the provisions of the following paragraphs:</p> <p>(2) The clerk of the district court shall notify the parties of the obligation to obtain a lawyer within fifteen days of notification.</p> <p>(3) At least eight days before the hearing, the clerk of the justice of the peace and the labour court respectively shall convoke the parties, informing them of the day, time and place of the hearing.</p> <p>(4)</p>



<p>Pour les personnes qui ont leur domicile ou résidence à l'étranger, les délais, visés aux paragraphes 2 et 3 du présent article, sont augmentés des délais prévus à l'article 167.</p> <p>(5) Les dispositions de l'article 170 sont applicables.</p>	<p>For persons whose domicile or residence is abroad, the time limits referred to in paragraphs 2 and 3 of this Article shall be extended by the time limits provided for in Article 167.</p> <p>(5) The provisions of Article 170 shall apply.</p>
<p>Article 49-4 Code de Procédure Civile (L. 13 mars 2009)</p>	<p>Article 49-4 Code of Civil Procedure (L. 13 March 2009)</p>
<p>L'affaire est instruite et jugée selon les règles applicables devant la juridiction désignée en vertu des dispositions de l'article 49-2. Le tribunal d'arrondissement statue selon la procédure applicable en matière civile.</p>	<p>The case shall be examined and judged according to the rules applicable before the court designated under the provisions of Article 49-2. The district court shall rule according to the procedure applicable in civil matters.</p>
<p>Article 49-5 Code de Procédure Civile (L. 13 mars 2009)</p>	<p>Article 49-5 Code of Civil Procedure (L. 13 March 2009)</p>
<p>Le demandeur d'une injonction de payer européenne, qui a fait une fausse déclaration intentionnelle au sens de l'article 7, paragraphe 3, du règlement (CE) N° 1896/2006, engage sa responsabilité.</p>	<p>The claimant of a European order for payment who has made an intentional false statement within the meaning of Article 7(3) of Regulation (EC) N° 1896/2006 shall be liable.</p>
<p>Article 49-6 Code de Procédure Civile (L. du 15 mai 2018)</p>	<p>Article 49-6 Code of Civil Procedure (L. of 15 May 2018)</p>
<p>Lorsque le demandeur a indiqué qu'il souhaite se voir appliquer la procédure européenne prévue par le règlement (CE) n° 861/2007 instituant une procédure européenne de règlement des petits litiges, tel que modifié, suite à l'opposition formée par le défendeur contre une injonction de payer européenne, conformément à l'article 17, paragraphe 1, point a) du règlement (CE) n° 1896/2006, tel que modifié, l'article 143-1 du Nouveau Code de procédure civile s'applique le cas échéant.</p>	<p>Where the claimant has indicated, following the opposition lodged by the defendant against a European order for payment pursuant to Article 17(1)(a) of Regulation (EC) N° 1896/2006, as amended, that he wishes to follow the European procedure provided for in Regulation (EC) N° 861/2007 establishing a European Small Claims Procedure, as amended, , Article 143-1 of the New Code of Civil Procedure shall apply as appropriate.</p>
<p>Article 685-6 Code de Procédure Civile (L. du 15 mai 2018)</p>	<p>Article 685-6 Code of Civil Procedure (L. of 15 May 2018)</p>



<p>(1) Les décisions judiciaires rendues dans un État membre de l'Union européenne qui y sont exécutoires et qui aux termes du règlement (CE) n° 861/2007 instituant une procédure européenne de règlement des petits litiges ou du règlement (CE) n° 1896/2006 instituant une procédure européenne d'injonction de payer, tels que modifiés, remplissent les conditions pour être reconnues et exécutées au Luxembourg, sont reconnues et exécutées dans les formes prévues par ces règlements.</p> <p>(2) La demande de refus d'exécution, la demande de suspension de l'exécution, la demande de limitation de l'exécution et la demande de subordonner l'exécution à la constitution d'une sûreté, sont portées devant le président du tribunal d'arrondissement siégeant comme en matière de référé.</p> <p>(3) Un recours contre la décision du président du tribunal d'arrondissement peut être formé devant la Cour d'appel siégeant comme en matière de référé. Ce recours doit être intenté dans les formes et délais prévus en matière de référé. La décision rendue par la Cour peut faire l'objet d'un pourvoi en cassation dans les formes et délais prévus en matière civile de droit commun.</p>	<p>(1) Judicial decisions issued in a Member State of the European Union which are enforceable there and which, under the terms of Regulation (EC) N° 861/2007 creating a European Small Claims Procedure or Regulation (EC) N° 1896/2006 creating a European order for payment procedure, as amended, fulfil the conditions for being recognised and enforced in Luxembourg, shall be recognised and enforced in the manner provided for by these regulations.</p> <p>(2) An application for refusal of enforcement, an application for suspension of enforcement, an application for limitation of enforcement and an application to make enforcement conditional on the provision of a security shall be brought before the president of the district court sitting as in summary proceedings.</p> <p>(3) An appeal against the decision of the president of the district court may be lodged with the Court of Appeal sitting as in summary proceedings. This appeal must be lodged in the form and within the time limits laid down for summary proceedings. The decision issued by the Court may be appealed to the Court of Cassation in the manner and within the time limits provided for in civil matters under general law.</p>
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IV. ESCPR

<p>Article 143-1 Code de Procédure Civile (L. du 15 mai 2018)</p> <p>(1) Le juge de paix est compétent pour les demandes visées par le règlement (CE) n° 861/2007 du Parlement européen et du Conseil du 11 juillet 2007 instituant une procédure européenne de règlement des petits litiges, tel que modifié.</p> <p>(2) L'appel est interjeté devant le président du tribunal d'arrondissement siégeant comme en matière de référé sous la forme d'une requête déposée par l'appelant ou son mandataire. L'appel est introduit dans un délai de quarante jours à compter de la date à laquelle la décision a été notifiée par le greffe.</p> <p>(3) Huit jours au moins avant l'audience, le greffier du tribunal d'arrondissement convoque les parties à comparaître, en leur faisant connaître les jour, heure et lieu de l'audience. Les dispositions de l'article 167 ne sont pas applicables.</p>	<p>Article 143-1 Code of Civil Procedure (L. of 15 May 2018)</p> <p>(1) The justice of the peace shall have jurisdiction over the claims referred to in Regulation (EC) N° 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, as amended.</p> <p>(2) The appeal shall be lodged with the president of the district court sitting as in summary proceedings in the form of an application lodged by the appellant or his representative. The appeal shall be lodged within forty days of the date on which the decision was notified by the registry.</p> <p>(3) At least eight days before the hearing, the clerk of the district court shall convoke the parties, informing them of the day, time and place of the hearing. The provisions of Article 167 do not apply.</p>
<p>Art. 143-2 Code de Procédure Civile (L. du 15 mai 2018)</p> <p>(1) Le juge de paix directeur de la juridiction où la décision a été rendue, ou le juge qui le remplace, est compétent pour statuer sur la demande en réexamen, visée à l'article 18 du règlement (CE) n° 861/2007, tel que modifié.</p> <p>(2)</p>	<p>Art. 143-2 Code of Civil Procedure (Law of 15 May 2018)</p> <p>(1) The presiding justice of the peace of the court where the decision was given, or the judge who replaces him or her, shall be competent to rule on the application for review referred to in Article 18 of Regulation (EC) N° 861/2007, as amended.</p> <p>(2)</p>



<p>La demande en réexamen est formée au greffe de la juridiction où la décision a été rendue par déclaration écrite déposée par le défendeur ou par son mandataire.</p> <p>(3) Huit jours au moins avant l'audience, le greffier de la justice de paix convoque les parties à comparaître, en leur faisant connaître les jour, heure et lieu de l'audience. Les dispositions de l'article 167 sont applicables.</p>	<p>The application for review shall be made at the registry of the court where the judgment was given by a written statement lodged by the defendant or his representative.</p> <p>(3) At least eight days before the hearing, the clerk of the justice of the peace shall convoke the parties, informing them of the day, time and place of the hearing. The provisions of Article 167 shall apply.</p>
<p>Article 685-6 Code de Procédure Civile <u>(L. du 15 mai 2018)</u></p>	<p>Article 685-6 Code of Civil Procedure (L. of 15 May 2018)</p>
<p>(1) Les décisions judiciaires rendues dans un État membre de l'Union européenne qui y sont exécutoires et qui aux termes du règlement (CE) n° 861/2007 instituant une procédure européenne de règlement des petits litiges ou du règlement (CE) n° 1896/2006 instituant une procédure européenne d'injonction de payer, tels que modifiés, remplissent les conditions pour être reconnues et exécutées au Luxembourg, sont reconnues et exécutées dans les formes prévues par ces règlements.</p> <p>(2) La demande de refus d'exécution, la demande de suspension de l'exécution, la demande de limitation de l'exécution et la demande de subordonner l'exécution à la constitution d'une sûreté, sont portées devant le président du tribunal d'arrondissement siégeant comme en matière de référé.</p> <p>(3)</p>	<p>(1) Judicial decisions issued in a Member State of the European Union which are enforceable there and which, under the terms of Regulation (EC) N° 861/2007 creating a European Small Claims Procedure or Regulation (EC) N° 1896/2006 creating a European order for payment procedure, as amended, fulfil the conditions for being recognised and enforced in Luxembourg, shall be recognised and enforced in the manner provided for by these regulations.</p> <p>(2) An application for refusal of enforcement, an application for suspension of enforcement, an application for limitation of enforcement and an application to make enforcement conditional on the provision of a security shall be brought before the president of the district court sitting as in summary proceedings.</p> <p>(3)</p>



<p>Un recours contre la décision du président du tribunal d'arrondissement peut être formé devant la Cour d'appel siégeant comme en matière de référé. Ce recours doit être intenté dans les formes et délais prévus en matière de référé.</p> <p>La décision rendue par la Cour peut faire l'objet d'un pourvoi en cassation dans les formes et délais prévus en matière civile de droit commun.</p>	<p>An appeal against the decision of the president of the district court may be lodged with the Court of Appeal sitting as in summary proceedings. This appeal must be lodged in the form and within the time limits laid down for summary proceedings.</p> <p>The decision issued by the Court may be appealed to the Court of Cassation in the manner and within the time limits provided for in civil matters under general law.</p>
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V. EAPOR

Article 685-5 Code de Procédure Civile (L. 17 mai 2017)	Article 685-5 Code of Civil Procedure (L. 17 May 2017)
<p>(1)</p> <p>Les décisions judiciaires en matière civile et commerciale rendues dans un Etat membre de l'Union européenne et qui aux termes du Règlement (UE) n° 655/2014 du Parlement européen et du Conseil du 15 mai 2014 portant création d'une procédure d'ordonnance européenne de saisie conservatoire des comptes bancaires, destinée à faciliter le recouvrement transfrontière de créances en matière civile et commerciale, remplissent les conditions pour être reconnues et exécutées au Luxembourg, sont reconnues et exécutées dans les formes prévues par ce Règlement.</p>	<p>(1)</p> <p>Judicial decisions in civil and commercial matters rendered in a Member State of the European Union and which under the terms of Regulation (EU) N° 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters, qualify for recognition and enforcement in Luxembourg, shall be recognised and enforced in the manner provided for by that Regulation.</p>
<p>(2)</p> <p>La demande d'ordonnance européenne de saisie conservatoire pour une créance inférieure ou égale à 10.000 € est portée par requête devant le juge de paix.</p> <p>La demande d'ordonnance européenne de saisie conservatoire pour une créance</p>	<p>(2)</p> <p>The application for a European account preservation order for a claim up to EUR 10,000 shall be made by application to the justice of the peace.</p> <p>An application for a European account preservation order for a claim exceeding</p>



<p>supérieure à 10.000 € est portée par requête devant le président du tribunal d'arrondissement.</p> <p>(3) L'appel contre la décision du juge de paix refusant la demande d'ordonnance européenne de saisie conservatoire est porté par requête devant le président du tribunal d'arrondissement. L'appel contre la décision du président du tribunal d'arrondissement refusant la demande d'ordonnance européenne de saisie conservatoire est porté par requête devant la Cour d'appel. Un tel appel est introduit dans un délai de trente jours à compter de la date à laquelle la décision a été notifiée par le greffe au demandeur. L'appel est introduit et jugé comme en matière de référé. Il s'agit d'une procédure unilatérale.</p> <p>(4) Un recours en révocation de l'ordonnance européenne de saisie conservatoire et un recours en modification de l'ordonnance européenne de saisie conservatoire pour une créance inférieure ou égale à 10.000 € est porté devant le juge de paix. Un recours en révocation de l'ordonnance européenne de saisie conservatoire et un recours en modification de l'ordonnance européenne de saisie conservatoire pour une créance supérieure à 10.000 € est porté devant le président du tribunal d'arrondissement. Ces recours peuvent être faits à tout moment. Ils sont introduits et jugés comme en matière de référé.</p> <p>(5)</p>	<p>EUR 10,000 shall be made by application to the president of the district court.</p> <p>(3) An appeal against the decision of the justice of the peace refusing the application for a European account preservation order is lodged by application with the president of the district court. An appeal against the decision of the president of the district court refusing the application for a European account preservation order shall be lodged by application with the Court of Appeal. Such an appeal shall be lodged within thirty days of the date on which the decision was notified by the registry to the applicant. The appeal is lodged and judged as in summary proceedings. It is an <i>ex parte</i> procedure.</p> <p>(4) An appeal for revocation of the European account preservation order and an appeal for modification of the European account preservation order for a claim of EUR 10,000 or less is brought before the justice of the peace. An appeal for revocation of the European account preservation order and an appeal for modification of the European account preservation order for a claim exceeding EUR 10,000 is brought before the president of the district court. These appeals can be made at any time. They are lodged and judged as in summary proceedings.</p> <p>(5)</p>
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<p>Un recours en limitation de l'ordonnance européenne de saisie conservatoire et un recours en cessation de l'ordonnance européenne de saisie conservatoire pour une créance inférieure ou égale à 10.000 € est porté devant le juge de paix.</p> <p>Un recours en limitation de l'ordonnance européenne de saisie conservatoire et un recours en cessation de l'ordonnance européenne de saisie conservatoire pour une créance supérieure à 10.000 € est porté devant le président du tribunal d'arrondissement.</p> <p>Ces recours peuvent être faits à tout moment. Ils sont introduits et jugés comme en matière de référé.</p> <p>(6)</p> <p>Les décisions rendues par le juge de paix en application des paragraphes 4 et 5 peuvent faire l'objet d'un appel devant le président du tribunal d'arrondissement dans un délai de quinze jours à partir de la signification.</p> <p>Les décisions rendues par le président du tribunal d'arrondissement en application des paragraphes 4 et 5 peuvent faire l'objet d'un appel devant la Cour d'appel dans un délai de quinze jours à partir de la signification.</p> <p>Ces appels sont introduits et jugés comme en matière de référé.</p> <p>(7)</p> <p>Les dispositions des articles 27 à 46 du Nouveau Code de procédure civile sont applicables aux paragraphes 1 à 6 ci-avant.</p> <p>Les dispositions de l'article 167 du Nouveau Code de procédure civile ne sont pas applicables aux paragraphes 1 à 6 ci-avant.</p> <p>Le demandeur et, le cas échéant, le défendeur sont convoqués à l'audience par les soins du greffe.</p>	<p>An appeal for limitation of the European account preservation order and an appeal for cessation of the European account preservation order for a claim up to EUR 10,000 shall be brought before the justice of the peace.</p> <p>An appeal to limit the European account preservation order and an appeal to terminate the European account preservation order for a claim exceeding EUR 10,000 shall be lodged with the president of the district court.</p> <p>These appeals can be made at any time. They are lodged and judged as in summary proceedings.</p> <p>(6)</p> <p>Within fifteen days of service of the decision, an appeal may be lodged with the president of the district court against decisions given by the justice of the peace pursuant to paragraphs 4 and 5.</p> <p>Decisions given by the president of the district court pursuant to paragraphs 4 and 5 may be appealed to the Court of Appeal within fifteen days of service.</p> <p>Such appeals shall be lodged and judged as in summary proceedings.</p> <p>(7)</p> <p>The provisions of Articles 27 to 46 of the New Code of Civil Procedure are applicable to paragraphs 1 to 6 above.</p> <p>The provisions of Article 167 of the New Code of Civil Procedure are not applicable to paragraphs 1 to 6 above.</p> <p>The plaintiff and, where applicable, the defendant are convoked to the hearing by the registry.</p>
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Article 718-1 Code de Procédure Civile (<u>L. du 18 juillet 2018</u>)	Article 718-1 Code of Civil Procedure (L. of 18 July 2018)
<p>(1) Le créancier qui obtient un titre exécutoire constatant l'existence de sa créance pour le recouvrement de laquelle il a obtenu une ordonnance européenne de saisie conservatoire des comptes bancaires au sens du règlement (UE) n° 655/2014 signifie au tiers saisi un acte de conversion qui contient à peine de nullité :</p> <ol style="list-style-type: none">1. une copie de la partie A de l'ordonnance européenne de saisie conservatoire des comptes bancaires ;2. les cas échéant copie de toute décision ayant modifié l'ordonnance ;3. une copie du titre exécutoire ;4. le décompte des sommes dues en vertu du titre exécutoire qui comprennent le montant principal, les frais, les intérêts échus avec l'indication du taux applicable ainsi que les accessoires éventuels dans les limites déterminées dans l'ordonnance européenne de saisie conservatoire ;5. une demande de paiement des sommes indiquées au point précédent. <p>L'acte informe le tiers saisi que, dans cette limite, la demande entraîne attribution immédiate de la créance saisie au profit du créancier.</p> <p>(2) La copie de l'acte de conversion est signifiée au débiteur.</p> <p>(3) Le débiteur peut, sous peine de forclusion, contester l'acte de conversion dans les quinze jours de la signification. Ce délai est augmenté, le cas échéant, des délais de distance prévus à l'article 167. La contestation est portée par assignation</p>	<p>(1) A creditor who obtains an enforcement order establishing the existence of his claim for the recovery of which he has obtained a European account preservation order within the meaning of Regulation (EU) N° 655/2014 serves on the garnishee a conversion act which may be declared void unless it contains:</p> <ol style="list-style-type: none">3. a copy of Part A of the European account preservation order; <ol style="list-style-type: none">2. where applicable, a copy of any decision amending the order3. a copy of the enforcement title;4. a statement of the sums due under the enforcement title, which shall include the principal amount, costs, accrued interest with an indication of the applicable rate, as well as any accessories within the limits determined in the European account preservation order5. a request for payment of the sums indicated in the previous point. <p>The document shall inform the garnishee that, within this amount, the request shall entail immediate transfer of the seized claim to the creditor.</p> <p>(2) A copy of the conversion act shall be served on the debtor.</p> <p>(3) The debtor may, under penalty of estoppel, contest the conversion act within fifteen days of service. This time limit shall be extended, where applicable, by the time limits for distance provided for in Article 167. The dispute shall be brought by writ</p>



<p>signifiée au créancier devant le président du tribunal d'arrondissement dans le ressort duquel se trouve le siège du tiers saisi. La contestation est introduite, instruite et jugée comme en matière de référé.</p> <p>La contestation peut être basée sur l'un des motifs suivants :</p> <ol style="list-style-type: none">1. l'inexactitude du décompte visé au point no. 4 du paragraphe 1^{er};2. la disparition ou la modification du titre exécutoire à l'origine de la procédure de conversion visé au point no. 3 du paragraphe 1^{er} ;3. la modification ou la 44ecision44i de l'ordonnance de saisie conservatoire, ainsi que la modification, la limitation ou la fin de l'exécution de l'ordonnance de saisie conservatoire, pour autant que la demande ayant pour objet une telle mesure ait été introduite avant la signification de l'acte de conversion ; <p>Sous peine d'irrecevabilité, la contestation est dénoncée par le même exploit à l'huissier de justice qui a signifié l'acte de conversion ainsi qu'au tiers saisi.</p> <p>La 44ecision rendue sur la contestation de l'acte de conversion n'est pas susceptible de recours.</p> <p>Les frais 44ecision44 par la 44ecision44 de conversion sont à charge du débiteur si aucune contestation de l'acte de conversion n'a été formée dans les délais prévus au 44ecisio paragraphe ou 44ecisi de 44ecision de rejet de la contestation. En dehors de ces cas, le 44ecision44 du tribunal d'arrondissement saisi de la contestation statue sur les frais conformément à l'article 238.</p>	<p>served on the creditor before the president of the district court within whose jurisdiction the registered office of the garnishee is located. The dispute shall be lodged, examined and judged as in summary proceedings.</p> <p>The challenge may be based on one of the following grounds:</p> <ol style="list-style-type: none">1. the inaccuracy of the statement of the amounts referred to in point 4 of paragraph 1;2. the disappearance or modification of the enforcement title at the origin of the conversion procedure referred to in point 3 of paragraph 1;3. the modification or revocation of the preservation order, as well as the modification, limitation or termination of the enforcement of the preservation order, provided that the application for such a measure was lodged before the service of the conversion act; <p>The challenge shall be deemed inadmissible unless it has been notified by the same writ to the bailiff who served the conversion act and to the garnishee.</p> <p>The decision rendered on the challenge of the conversion act is not subject to appeal.</p> <p>The costs incurred by the conversion procedure shall be borne by the debtor if no challenge to the conversion act has been lodged within the time limits provided for in this paragraph or if the challenge is rejected. In other cases, the president of the district court hearing the challenge shall decide on the costs in accordance with Article 238.</p> <p>(4)</p>
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<p>(4) En l'absence de contestation, le tiers saisi procède au paiement sur la seule présentation d'un certificat établi par l'huissier de justice qui a signifié l'acte de conversion attestant qu'aucune contestation n'a été formée dans les délais prévus au paragraphe 3, accompagné le cas échéant d'un décompte actualisé.</p> <p>Le paiement peut intervenir avant l'expiration de ces délais si le débiteur a déclaré ne pas contester l'acte de conversion. Cette décision doit être constatée par écrit.</p> <p>En cas de décision de rejet de la contestation, le tiers saisi procède au paiement sur la seule décision de la décision de rejet rendue en application du paragraphe 3, accompagnée, le cas échéant, d'un décompte actualisé.</p>	<p>In the absence of a challenge, the garnishee shall proceed to payment upon the showing of a certificate drawn up by the bailiff who served the conversion act attesting that no challenge has been made within the time limits provided for in paragraph 3, accompanied, where applicable, by an updated account of the amount due.</p> <p>Payment may be made before the expiry of these time limits if the debtor has declared that he does not contest the act of conversion. This declaration must be recorded in writing.</p> <p>In the event of a decision rejecting the challenge, the garnishee shall make payment upon the showing of the decision rejecting the challenge pursuant to paragraph 3, accompanied, where appropriate, by an updated account of the amount due.</p>
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