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EFFORTS Practice Guide for the application of the Regulation on the European Small Claims Procedure – Luxembourg

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I. INTRODUCTION.....	4
II. THE ESCP: SCOPE OF APPLICATION	4
III. COMMENCING THE PROCEDURE.....	5
IV. PROCEDURE AFTER THE COURT RECEIVES THE CLAIM	10
V. ESTABLISHING THE FACTS	14
VI. THE JUDGMENT	16
VII. REVIEW AND APPEAL	18
VIII. RECOGNITION AND ENFORCEMENT	19



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I. Introduction

*The paragraphs below address the concrete implementation of Regulation No 861/2007 (as amended by Regulation No 2015/2421) establishing a European Small Claims Procedure (hereinafter indicated as “**ESCP**” and “**ESCP Reg.**”) into the national law of Luxembourg. In doing so, it integrates and supplements the European “Practice Guide for the Application of the European Small Claims Procedure” published by the Commission on the [e-Justice Portal](#)⁽¹⁾.*

Following the structure of the European Practice Guide, the present section will address, in turn: questions related to the scope of application of the ESCP (II), the commencement of the procedure (III), the procedure to be followed after the court receives the claim (IV), the rules applicable to the establishing of the facts (V), the ESCP judgment (VI), the review and appeal mechanisms (VII), and the recognition and enforcement of ESCP judgments (VIII).

II. The ESCP: Scope of application

When Luxembourg is the Member State of origin

1. Material scope of the ESCP Reg. Pursuant to Art. 2 ESCP Reg., the Regulation applies to “civil and commercial matters, whatever the nature of the court or tribunal, where the value of a claim does not exceed EUR 5 000 at the time when the claim form is received by the court or tribunal with jurisdiction, excluding all interest, expenses and disbursements”. Regarding the financial limit, Art. 2(1) ESCP Reg. sets out how the value of the claim is to be determined (EC PG 2.1.1.). Unlike the procedure for the European Order for Payment which is limited to monetary claims, non-monetary claims can be the subject of a claim under the ESCP (EC PG 2.1.2.). If the claim is non-monetary, it must be given a value which falls within the financial limit of the ESCP (EC PG *ibid.*).

In Luxembourgish law, there is no specific provision, addressing the evaluation of a non-monetary claim.

Two possible scenarios need to be distinguished:

If it is by nature not possible to determine the value of the claim, the claim will be of undetermined value.

¹ The European Practice Guide prepared by the Commission is available at: ‘European E-Justice Portal – Small Claims’ <https://e-justice.europa.eu/42/EN/small_claims> accessed 21 April 2022.



It may be possible to determine the value of the claim with reference to the underlying object of the claim (e.g.: the value of the contract whose annulment is sought). In that case, this value might be used.

2. Geographical scope of the ESCP Reg. (cross-border cases). The ESCP only applies to cases defined as 'cross-border', that is cases in which at least one of the parties is domiciled or habitually resident in a Member State other than that of the court or tribunal seised with the claim (EC PG 2.2.2.). In Article 3(3) it is provided that the relevant moment for determining whether a case is a cross-border case is the date on which the Claim Form is received by the competent court or tribunal (EC PG *ibid.*). Furthermore, Art. 3(2) ESCP Reg. provides that the domicile should be determined according to Art. 62 and 63 BI bis Reg. According to these provisions, the domicile of physical persons should be determined in accordance with national law.

In Luxembourgish law, for natural persons, the norms relating to the domicile are contained in Art. 102-111 of the Luxembourgish Civil Code.

For legal persons, the norms relating to the domicile are contained in Art. 100-2 of the law regarding commercial undertakings.²

III. Commencing the Procedure

When Luxembourg is the Member State of origin

1. Access to the form. In accordance with Art. 4 ESCP Reg., the claimant shall commence the procedure by filling in Claim Form A (Annex 1) (EC PG 3.1). The Claim Form should be available at all courts and accessible through relevant national websites (Article 4(5)) (*ibid.*).

In Luxembourg, the ESCP Claim Form A can be found here: <https://guichet.public.lu/en/citoyens/citoyennete/voies-recours-reglement-litiges/procedure->

² Loi du 10 août 1915, concernant les sociétés commerciales, <https://legilux.public.lu/eli/etat/leg/loi/1915/08/10/n1/consolide/20210816>.



[europeenne/procedure-UE-petits-litiges.html](#) and on the webpage of the courts: [Procédures européennes - Créances - La Justice - Luxembourg \(public.lu\)](#).

This website contains a link³ to the e-Justice-Portal where the form online can be completed online. However, after having completed the form online, the user has to print out the form and send it to the court by postal services as Luxembourg has not yet implemented an online-filing procedure.

2. Practical assistance. Since through Art. 11 ESCP Reg. the Member States are under the duty to ensure that the parties can receive practical assistance in filling in the forms, such assistance should be available in all the Member States as regards completion of the Claim Form as well as all the other forms (EC PG 3.1). In accordance with Article 25(1)(c) information on the organisation of the practical assistance has to be provided to the European Commission. This information is made available on the e-Justice Portal (*ibid.*) (on practical assistance, cf. also EC PG 9.2.2.).

The national information portal (<https://guichet.public.lu/en/citoyens/citoyennete/voies-recours-reglement-litiges/procedure-europeenne/procedure-UE-petits-litiges.html>) does not indicate which authorities can be approached for practical assistance, however, [Procédures européennes - Créances - La Justice - Luxembourg \(public.lu\)](#) gives general contact points

According to the information on the e-Justice Portal⁴, Luxembourgish legislation does not impose obligations on bailiffs or courts to assist the parties.

3. Legal aid. The ordinary provisions on legal aid apply in the Member States (EC PG 3.1).

³ https://e-justice.europa.eu/dynform_intro_form_action.do?idTaxonomy=177&formSelectiondynform_sc_a_2_action.

⁴ https://e-justice.europa.eu/42/EN/small_claims?LUXEMBOURG&member=1.



In Luxembourgish, information on legal aid in general is available on this website: <https://guichet.public.lu/en/citoyens/sante-social/action-sociale/assistance-judiciaire/demander-assistance-judiciaire.html>.

The websites of the bar ([Assistance judiciaire - Site Web \(barreau.lu\)](https://www.barreau.lu)) and of the Ministry of Justice (<https://mj.gouvernement.lu/fr/service-citoyens/assistance-judiciaire.html>) contain additional information.

As there is no provision which excludes the ESCP from legal aid, legal aid is also available for procedures under the ESCP Regulation.

4. Competent court or tribunal. National rules of the Member State seised determine the local court having competence (EC PG 3.2.2.). For the purposes of the ESCP, a court or tribunal should include at least one person qualified to serve as a judge under the law of the Member State of the court where the claim is proceeding (See Recital (27) ESCP Reg.) (EC PG 5.6.2.).

Art. 143-1(1) NCPC stipulates that the juge de paix is the competent court for the European Small Claims Procedure.

There is no specific provision as to what happens when an application is first sent to a court which is not competent.

5. Description of the claim. The factual basis of the claim to be given in box 8 of the Claim Form needs to be supported by as much written material as is necessary to enable the court which receives the claim to determine the value of the claim, the basis of the claim and the evidence which supports the claim. If this is not done, there is a risk that the court may reject the claim as unfounded or, at the very least, require further information from the claimant which will cost time and delay the procedure (EC PG 3.3.1.1.).



6. Interest. Although the claim is assessed without taking interest claimed into account, the interest figure or rate still has to be stated, as does the basis on which interest has accrued or is accruing to the principal claim (EC PG 3.3.2.).

In Luxembourgish law, Art. 1146 of the Civil code and the law regarding the calculation of interests⁵ governs the calculation of interests. There are no specific rules as how to calculate interests accrued after the issuance of the payment order.

7. The cost of lodging a claim. In accordance with Art. 15a ESCP Reg., court fees need to be proportionate and not be higher than those charged for comparable national procedures. Distance means of payment should be available by way of either (a) bank transfer; (b) credit or debit card payment; or (c) direct payment from the claimant's bank account (EC PG 3.4.).

According to the information available on the e-Justice Portal, apart from the fees for service and legal representation, there are no court fees in Luxembourg in general.⁶

Sending the claim to the court. The form should be lodged by post or by any other means of communication, such as fax or e-mail, acceptable to the Member State in which the procedure is commenced (EC PG 3.1 and EC PG 3.6). Because the ESCP is intended to be essentially a written procedure, it is necessary to send with the Claim Form all necessary supporting material in the shape of documentary evidence (EC PG 3.5.). Even if a court could accept the Claim in electronic form it may not be possible to send the supporting material electronically and so it would make sense to send the Claim

⁵ Loi du 18 avril 2004 relative aux délais de paiement et aux intérêts de retard, <https://legilux.public.lu/eli/etat/leg/loi/2004/04/18/n8/jo/fr>.

⁶ https://e-justice.europa.eu/306/EN/court_fees_concerning_small_claims_procedure?LUXEMBOURG&member=1.



Form with the documentary material by some other means acceptable to the court (EC PG 3.6).

According to the information available on the national information portal⁷, Luxembourg accepts postal service as a means of communication.

According to the information on the e-Justice Portal, Luxembourgish law does not allow to file the application by electronic means.⁸

8. Language. Under Art. 6(1) ESCP Reg., the Claim Form must be submitted in a language of the court or tribunal, and this also applies to the description of the supporting documents in Part 8.2 of the Claim Form (EC PG 3.7).

According to the information on the e-Justice-Portal, Luxembourgish courts accept applications in French and in German. Sometimes, Luxembourgish courts accept applications in English as well, however, they are not obliged to do so.

9. Court settlements. In accordance with Art. 12(3) ESCP Reg. the court is placed under a duty to seek a settlement between the parties (EC PG 3.8.). This duty is, however, not confined to the oral hearing but extends throughout the proceedings on claims and counterclaims (*ibid.*).

Art. 70 NCPC stipulates that it is the aim of the court to reconcile the parties. However, this provision does not set out the duty of the court to seek a settlement between the parties in the course of the ESCP.

⁷ <https://guichet.public.lu/en/citoyens/citoyennete/voies-recours-reglement-litiges/procedure-europeenne/procedure-UE-petits-litiges.html>.

⁸ Cf. https://e-justice.europa.eu/280/EN/online_processing_of_cases_and_ecommunication_with_courts?LUXEMBOURG&member=1.



IV. Procedure after the Court receives the claim

When Luxembourg is the Member State of origin

1. Claim falling outside of the scope of the ESCP Reg. If the court concludes that the claim is outside the scope of the Regulation, say if it deals with subject matter which cannot be the basis of a claim under the ESCP or if the value of the claim is above the financial limit of the ESCP, under Art. 4(3) ESCP Reg. it must notify the claimant of this. The claimant can then decide to withdraw the claim or, if she or he does not do so, the court is required to proceed with it under an appropriate national procedure (EC PG 4.1.2.).

In Luxembourgish law, there are no specific rules regarding the initial evaluation of the claim, apart from nominating the juge de paix as the competent authority under the ESCP Regulation.

Luxembourgish law does not contain any specific rules as how to withdraw the claim during the ESCP.

In case the claim is outside the scope of the ESCP, the national small claims procedure or any other national or European procedure can be used. The provisions governing the use of the national payment order are contained in Art. 129-143 NCPC. On the e-Justice Portal, there is information available regarding the functioning of the Luxembourgish national payment order.⁹

2. Request to the claimant to complete or rectify the claim form. Unless the court takes the view from the outset that the claim is unfounded or completely inadmissible, in which case it can dismiss the claim, the court can request the claimant to complete or rectify the Claim Form or to supply supplementary information or documents (EC PG 4.1.1.). Such a request is to be made using Form B prescribed by the Regulation (EC PG 4.1.3.). In the form, the court sets out the time by which the claimant must provide the information requested or return the rectified form. Art. 14(2) ESCP Reg. provides that this time limit may be extended by the court in exceptional circumstances (EC PG 4.1.3.).

⁹ https://e-justice.europa.eu/42/EN/small_claims?LUXEMBOURG&init=true&member=1.



In Luxembourgish law, there are no specific provisions addressing requests to the claimant to complete or rectify the form.

However, the Luxembourgish national information portal indicates that in case of a form which is not correctly filled out, the court sends the claimant a correction and/or rectification form. The court determines a deadline by which the claimant has to return the form. If the claimant does not return the form within the deadline, the claim will be dismissed.¹⁰

There is no specific provision addressing the extension of this deadline. However, as the court sets the deadline, the claimant is free to communicate any circumstances to the court which may justify a longer deadline or an extension of the deadline.

3. Dismissal of the initial claim. Where the claim appears to be clearly unfounded or the application inadmissible or where the claimant fails to complete or rectify the claim form within the time specified, the application shall be dismissed. The court or tribunal shall inform the claimant of such dismissal and whether an appeal is available against such dismissal (Art. 4(5) ESCP Reg.). *The effect of dismissal on [the ground that the claimant did not provide the information requested or return the rectified form in due time, or the fact that the form is still filled in incorrectly or in the wrong language] is not to decide the substance of the claim which could be re-made as a European small claim or under the appropriate national procedure (EC PG 4.1.3.).*

Luxembourg law does not contain a specific provision addressing additional requirements which have to be taken into account when assessing the admissibility of the claim.

There is no specific provision in Luxembourgish law according to which an appeal against the dismissal is available.

¹⁰ <https://guichet.public.lu/en/citoyens/citoyennete/voies-recours-reglement-litiges/procedure-europeenne/procedure-UE-petits-litiges.html>.



4. Communication of the claim to the defendant. The court sends to the defendant a copy of the Claim Form and the supporting documents along with Answer Form C of which the court has to complete the first part (EC PG 4.2.1.). According to Art. 13(1) ESCP Reg., the court has to send Form C with the copy of the Claim Form and supporting documents in one of the following ways: (a) by postal service, or (b) by electronic means (EC PG 4.2.3.)¹¹ (provided that the requirements set out in Art. 13(1) ESCP Reg. are fulfilled).

In Luxembourgish law, there are no specific provisions regarding the communication of the claim to the defendant.

According to the information available on the national information portal of Luxembourg, the competent court sends the notice to the defendant within 14 days of receiving the claim.¹² The service is made by post, with dated proof of receipt requested.

5. Electronic communications. In accordance with Art. 13(2) ESCP Reg., other written communications between the court and the parties or other persons involved in the proceedings shall be carried out by electronic means attested by an acknowledgment of receipt, where such means are technically available and admissible in the Member State where the procedure is conducted, provided that the party or person has accepted in advance such means of communication or is, in accordance with the procedural rules of the Member State in which that party or person is domiciled or habitually resident, under a legal obligation to accept such means of communication (EC PG 4.2.3.2.). If service by post or electronically, within the meaning of Art. 13(1) ESCP Reg., is not possible, Art. 13(4) prescribes the rules of Art. 13 or 14 EOP Reg (EC PG 4.2.3.3.).

¹¹ Please note that the Service Regulation applies to cross-border notifications.

¹² <https://guichet.public.lu/en/citoyens/citoyennete/voies-recours-reglement-litiges/procedure-europeenne/procedure-UE-petits-litiges.html>.



In Luxembourg, electronic means of communication as mentioned under Art. 13(2) ESCP Reg. are not available.¹³

6. Defendant's response. The defendant shall submit his response within 30 days of service of the claim form and answer form, by filling in Part II of standard answer Form C, accompanied, where appropriate, by any relevant supporting documents, and returning it to the court or tribunal, or in any other appropriate way not using the answer form (Art. 5(3) ESCP Reg.).

Regarding the response of the defendant, Luxembourg has not enacted specific rules with regard to the ESCP Regulation.

7. Counterclaim. If the defendant states a counterclaim then, as provided by Art. 5(7) ESCP Reg., all the provisions of the Regulation, specifically Art. 4, and 5(3) to 5(5) as well as Art. 2, will apply to the counterclaim as to the principal claim (EC PG 4.5.).

There are no rules in place in Luxembourg which address the issue of counterclaims in the ESCP specifically.

8. Enforcement of court settlements. Article 12(3) provides that the court or tribunal shall make efforts to reach a settlement between the parties in the course of the proceedings. In accordance with Article 23a ESCP Regulation a settlement that is either approved by or concluded before a court or tribunal in the course of the ESCP and that is enforceable in the Member State where the procedure was conducted shall be

¹³

https://e-justice.europa.eu/280/EN/online_processing_of_cases_and_ecommunication_with_courts?LUXEMBOURG&member=1.



recognised and enforced in other Member States on the same basis as a judgment in the ESCP.

In Luxembourgish law, there are no specific rules concerning the conclusion or the enforcement of court settlements.

V. Establishing the facts

When Luxembourg is the Member State of origin

1. Evidence. Art. 9 ESCP Reg. provides that the court is to specify the means of taking evidence, that it shall use the simplest and least burdensome method of taking evidence, and will hear oral evidence and evidence from expert witnesses only if it is necessary to do so in order to be able to give a judgment (EC PG 5.1.2.). Expert evidence or oral testimony may only be taken if it is not possible to give the judgment on the basis of other evidence, in accordance with Article 9(4) (EC PG 5.4.).

In Luxembourgish law, there are no specific rules regarding the taking of evidence in the context of the ESCP.

Lacking an indication to the contrary, in the context of the ESCP, the same means of taking evidence are applicable as in the national payment order procedure. According to the information on the e-Justice Portal, the ordinary rules of evidence apply in the national payment order procedure.¹⁴ The e-Justice Portal does contain a specific webpage with information regarding the taking of evidence.¹⁵

2. Additional information. Art. 7(1)(a) ESCP Reg. also enables the court to request further details concerning the claim once a response has been received regarding the claim or counterclaim after service. The court sets a time limit within which the information has to be provided and, as provided by Art. 14(2) ESCP Reg., that time limit can also be extended in exceptional circumstances. Under Art. 7(3) ESCP Reg., as

¹⁴ https://e-justice.europa.eu/content_small_claims-42-lu-en.do?member=1.

¹⁵ https://e-justice.europa.eu/76/EN/taking_of_evidence?LUXEMBOURG&clang=en.



read with Art. 14(1), the court has to inform the party to whom the request is made about what the consequences will be if the time limit is not complied with (EC PG 5.2.)⁽¹⁶⁾.

In Luxembourgish law, there are no specific provisions dealing with the question of not complying with the time limit set out in Art. 7(1)(a) ESCP Reg.

3. Hearing. It is for the court to decide whether to have a hearing to determine the facts. This follows the principle set out in Article 5(1) that the ESCP shall be a written procedure (EC PG 5.3.1.). If the court refuses a request for an oral hearing, it must give its reasons in writing (EC PG 5.3.2.).

In Luxembourgish law, there are no specific provisions regarding the scheduling, the organization and the conduct of the hearings in the context of the ESCP.

4. Use of ICT technologies in hearing and taking of evidence. As the actual use depends on the technology available in the court seised, the use of ICT during the procedure is not compulsory (EC PG 5.5).

According to the information available on the e-Justice Portal, there is no specific provision regarding video conferencing.¹⁷ However, video conferencing in Luxembourg is possible, as the courts are equipped with the necessary technical equipment. Luxembourg has made available on the e-Justice Portal a list of their courts and their respective technical equipment.¹⁸

¹⁶ On time limits, cf also Art. 14(2) ESCP Reg., which provides that certain time limits can be extended but only in exceptional circumstances and that also applies to the 30-day periods set out in Art. 7 ESCP Reg (EC PG 5.7.; see also 6.2.).

¹⁷ https://e-justice.europa.eu/76/EN/taking_of_evidence?LUXEMBOURG&member=1.

¹⁸ <https://e-justice.europa.eu/fileDownload.do?id=5e061880-8715-4448-9288-cfe4fa64f26c>.



The hearing of witnesses by the means of a video conference is subject to the ordinary rules of the NCP and the regulation on the taking of evidence.

5. Conduct of the procedure and information of the parties. The court has generally to manage the procedure in accordance with the principles of adversarial process and the right to a fair trial of the case (EC PG 5.6.1.). The duty of the court to control and determine the procedure in the ESCP is reinforced by Art. 12(2) ESCP Reg. whereby the court also has the duty to support the parties as regards procedural matters by informing them about procedural questions, and it follows from Recital (9) that the court in so doing must be even-handed as between the parties in order to ensure the fairness of the procedure. The duty to inform the parties about procedural questions can be carried out in various ways depending on national procedures (EC PG 5.6.2.).

There are no specific provisions in Luxembourgish law to that respect.

VI. The judgment

1. Default judgment. If the defendant does not answer the claim within the period of 30 days from service of the Claim Form and the Answer Form, Form C, the court shall issue the judgment (EC PG 6.1.1.). Where the default concerns a counterclaim, it is to be presumed that the claimant will wish to pursue the principal claim (see EC PG 6.1.2.).

In Luxembourgish law, the provisions regarding default judgments are found in Art. 78 et seq. NCPC.

The Luxembourgish national information portal does not mention that any of these rules may have an impact within the context of the ESCP.

2. Form and language of the judgment. It is implicit from the fact that the judgment in a European Small Claim has to be served on the parties that it should be in written



form. Otherwise there is no particular form and content of the judgment specified in the Regulation and, following Art. 19 ESCP Reg., these will therefore be determined by the law of the Member State in which the court hearing the claim is situated (EC PG 6.3.1.). The Regulation does not specify that the judgment should be written in a language other than the language of the court which issues it given that the judgment is to be served on the parties, however, it will be necessary for the appropriate language version to be available for service in order to meet the terms of the relevant EU law on the subject (EC PG 6.3.2.).

In Luxembourg, there are no specific provisions in the context of the ESCP.

The general rules regarding the form, content, and language of judgments are contained in Art. 229-256 NCPC.

The Luxembourgish civil code does not contain a provision stipulating the language of the judgment. Given that the legislation is in French, most judgments are handed down in French.¹⁹

3. Service of the judgment. Once the judgment has been issued, Art. 7(2) ESCP Reg. provides that it must be served on the parties using one of the methods of service specified in the Regulation (EC PG 6.3.3.).

According to the information on the e-Justice Portal, only bailiffs are competent to serve documents.²⁰ The rules regarding the procedure of the service are contained in Art. 155 et seq. NCPC. To start the time periods for opposition/appeal, notification by the clerk of the court is sufficient according to Art. 143-2(2) NCPC.

4. Costs. The judgment will contain an order for payment of costs (EC PG 6.4.). Art. 16 ESCP Reg. provides that costs should not be awarded if they are unnecessarily

¹⁹ <https://guichet.public.lu/en/citoyens/citoyennete/voies-recours-reglement-litiges/frais-avocat/langues-tribunaux.html>.

²⁰ https://e-justice.europa.eu/371/EN/service_of_documents_official_transmission_of_legal_documents?LUXEMBOURG&member=1.



incurred or are disproportionate to the claim (*ibid.*). Subject to that principle, the rule to be applied following Art. 16 of the Regulation is that the unsuccessful party should be ordered in the judgment to meet the costs of the proceedings and these are to be determined under the relevant national law (*ibid.*).

The e-Justice Portal contains information on the costs of judicial proceedings in Luxembourg.²¹

VII. Review and appeal

1. Review under the ESCP. Art. 18 ESCP Reg. sets out the minimum standards for review of the judgment. The defendant who did not enter an appearance shall be entitled to apply for a review of the judgment – using the available procedure under national law (EC PG 7.1.1.).

The juge de paix directeur is the competent authority to handle the review under Art. 18 ESCP Reg.

Art. 143-2(2) NCPC stipulates that the application for the review is to be handed to the clerk of the court which has rendered the decision. The application must be in written form and can be handed in either by the defendant himself or his lawyer.

Art. 143-2(3) NCPC stipulates that the clerk of the court informs the parties 8 days in advance about the date, hour, and place of the hearing. Art. 143-2(3) NCPC, second sentence states that Art. 167 NCPC is applicable. This provision extends the time period when one of the parties is domiciled outside Luxembourg.

2. Appeal. Under Art. 17 ESCP Reg., the question of whether or not an appeal against the judgment is available in the Member State where the judgment is issued is a matter regulated under the national law of the Member States (EC PG 7.2.). The information on whether an appeal is available and if so which court is competent is available on the e-Justice Portal (*ibid.*). The question of whether legal representation remains optional at the appeal stage is not explicitly settled by the ESCP Reg. However,

²¹ <https://e-justice.europa.eu/37/EN/costs?LUXEMBOURG&member=1>.



the provisions of Art. 16 ESCP Reg. on costs also apply to appeals of an ESCP judgment (see EC PG 7.3.).

Yes, appeal against a ESCP judgment is available in Luxembourg if the value of the claim exceeds 2.000 EUR. Art. 143-1(2) NCPC stipulates that the president of the tribunal d'arrondissement is the competent authority to rule on an appeal. The provision further stipulates that the appeal proceedings are summary proceedings. No legal representation is required. The appeal shall be lodged within forty days from the date on which the decision was notified by the court clerk.

Art. 143-1(3) NCPC stipulates that at least 8 days before the hearing, the clerk of the court shall inform the parties about the date, time, and place of the hearing. The second sentence of that provision stipulates that Art. 167 NCPC, which grants persons, domiciled outside Luxembourg extended time periods, is not applicable.

VIII. Recognition and enforcement

1. Request and issuance of the certificate of enforceability. Art. 20(2) ESCP Reg. provides that at the request of one of the parties, the court or tribunal shall issue a judgment certificate using the standard Form D (Annex IV) at no extra cost (EC PG 8.1.1). This certificate has to be issued by the court which gave the judgment under the ESCP at the request of one of the parties. Such a request can be made at the outset of the procedure, for which there is space provided in paragraph 9 of the Claim Form, Form A and, although this is not specified expressly in the Regulation, at any stage after the judgment has been issued (EC PG 8.3.1.).

Art. 87 of the law regarding the organization of the judiciary²² stipulates that the presiding judge or the director of the court in that jurisdiction in which the decision was rendered is the competent authority to issue a certificate.

There are no additional implementation rules regarding the procedure in place.

²² As amended by the law of 15 July 2021: <https://legilux.public.lu/eli/etat/leg/loi/2021/07/15/a541/jo> (no consolidated version is available yet).



As there are no court fees in general in Luxembourg,²³ court fees are incurred in this procedure neither.

2. Language. Upon request, the court or tribunal shall provide that party with the certificate in any other official language of the institutions of the Union by making use of the multilingual dynamic standard form available on the European e-Justice Portal. The court is not obliged to provide a translation and/or transliteration of the text entered in the free-text fields of that certificate (EC PG 8.1.1).

Luxembourgish law does not provide for the possibility that parties may ask the court of origin for a copy of the judgment, translated into another.

3. Enforcement procedure. By virtue of Art. 21 ESCP Reg., the procedure for enforcement is governed by the law of the Member State of enforcement, subject to the provisions of the Regulation on enforcement (EC PG 8.1.2).

a. Required documents: the person seeking enforcement shall provide an authentic copy of the judgment, and the judgment certificate (EC PG 8.2.). In order to secure execution of the judgment, it is necessary to instruct the authorities or agencies in the Member State of enforcement which are competent to take measures of execution (EC PG 8.5.2., see *Addendum*).

b. Translations: Member States have to provide information as to which languages other than the official language(s) are acceptable (Art. 21a(1) ESCP Reg.). The translation of the information on the substance of a judgment in the certificate of Art. 20(2) ESCP Reg. shall be done by a qualified translator (Art. 21a(2)). Information on which languages are accepted for the purpose of the enforcement is available on the European e-Justice Portal(*ibid.*).

²³ <https://e-justice.europa.eu/37/EN/costs?LUXEMBOURG&member=1>.



In Luxembourgish law, there is no specific provision regarding the question of which kinds of copy satisfy the requirements of authenticity.

However, it is safe to assume that authentic copies would meet the requirements.

In Luxembourgish courts, the three official languages of Luxembourg (Luxembourgish, French, German) are accepted.

Sworn translators are qualified to do a translation of a judgment. The Luxembourgish Ministry of Justice maintains a list of sworn translators.²⁴

4. Procedure to challenge enforcement. The Regulation does not provide a procedure for an application to the court to challenge the enforcement of the judgment on the grounds of irreconcilability, and this is a matter to be regulated under the procedural law of the Member State concerned. Similarly it is normally also possible for the court in that Member State under the national law to refuse or stop enforcement if and to the extent that the sums awarded in the ESCP judgment have been paid or the judgment has otherwise been satisfied (EC PG 8.4.2.).

Art. 685-6(2) NCPC stipulates that the request to challenge enforcement is to be brought before the president of the tribunal d'arrondissement. The procedure will be a summary proceeding (matière de référé).

There are no court fees in Luxembourg.

An appeal against the decision of the president of the tribunal d'arrondissement is possible (Art. 685-6(3) NCPC). The appeal has to be brought before the cour d'appel. The procedure will be a summary proceeding before the cour d'appel as well.

Against the decision, a request of cassation is possible.

²⁴ <https://mj.gouvernement.lu/fr/professions-droit/expert-judiciaire/liste-experts-traducteurs.html>.



5. Stay or limitation of enforcement. These matters are regulated by Art. 23 ESCP Reg. (see EC PG 8.4.3.).

Regarding the competent court, Luxembourgish law does not distinguish between the request to challenge or to stay/limit the enforcement. Therefore, the president of the tribunal d'arrondissement is the competent body to decide on the stay or limitation, Art. 685-6(2) NCPC.