



Towards more Effective
enFORcemenT of claimS in
civil and commercial matters
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EFFORTS Practice Guide for outgoing or incoming judgments, court settlements and authentic instruments certified as European Enforcement Orders - Belgium

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I. Introduction

Building upon the contents of the *Practice Guide for the Application of the Regulation on the European Enforcement Order of the Commission* ([here](#)), the *EFFORTS Practice Guide* seeks to supplement operators and end-users with clear practical instructions on how to proceed with the European Enforcement Order Regulation (Reg. (EC) No 805/2004) at a national level.

According to the general scope of the EFFORTS Project, the *EFFORTS Practice Guide for outgoing and incoming titles* covers the Member States addressed: Belgium, Croatia, France, Germany, Italy, Lithuania and Luxembourg.

The Guide is structured so that issues relating to outgoing and incoming titles are dealt with separately. *Outgoing* titles are the ones for which certification is sought in the Member State of origin: the interplay between European and national civil procedural rules makes it difficult for operators and end-users to verify how and when to ask for a European Enforcement Order, whether the requirements for the certification are met and which are the possible remedies/defences for the parties.

Incoming titles are the ones, certified as EEOs in another Member State, that must be enforced in the Member State addressed: according to the general principle of mutual recognition in judicial cooperation in civil matters within the European Union, the same conditions apply as for national titles, plus additional remedies specifically drafted for the European Enforcement Order (Arts. 20 ff. EEO Reg.). The interplay between European and national civil procedural rules makes it difficult for operators and end-users to verify how, when and under which conditions they may proceed with enforcement and the procedures and the conditions to ask for refusal of enforcement or for stay/limitation of the enforcement proceedings.

II. Outgoing

When BE is the Member State of origin

The procedure and the requirements to obtain an EEO certification vary depending on the title to be certified. The following paragraphs will address in turn the certification of judgments that are yet to be given/that have already been issued (A), authentic instruments (B), and court settlements (C).

A. EEO for judgements

Depending on whether the judgment has yet to be given or has already been given, the creditor may take certain steps to ensure its certification of as EEO. The Commission Practice Guide distinguishes between these two possibilities and provides the creditor with separate step-by-step instructions for the certification of judgments as EEOs. In the present document, however, the requirements for the certification of existing and future judgments are dealt with together, leaving

it then to the creditor to follow the different practical instructions (see Chapter II and III of the Commission Practice Guide) for an already given judgment or one that has not been given yet.

1. How and when to ask for the European Enforcement Order. A request for a European Enforcement Order must be addressed to the competent authority in the Member State of origin. In principle this is the court seized on the merits (EC PG II.3.1 and III.2.1):

The request must be made in accordance with the national law of the court seized (EC PG II.3.2 and III.2.2):

The request may be made at any time when or after proceedings have been initiated (EC PG II.3.3) or at any time after the judgement was given (EC PG III.2.3):

In Belgium, the competent authority for the purpose of issuing and/or suspending the European Enforcement Order certificate varies depending on the object upon which the certificate is sought. As soon as a judgment is given, the court that gave the judgment may issue the European enforcement order certificate upon request of the applicant (Art. 9 Reg. (EC) No 805/2004). The same principle is laid down in Article 24 Reg. (EC) No 805/2004 for the court settlement.

In this sense:

- If the applicant requests the EEO certificate based on a judgement or a court- approved settlement, in accordance with Art. 5.1 of the Ministerial Circular of 22 June 2005, the competent authority to issue or certify the EEO certificate is the Chief Clerk of the court who has delivered the judgement or approved the settlement.
- If the certificate is sought because of an authentic instrument, therefore, the competent authority to issue such certificate is the notary who drew up the instrument, according to Art. 1317 of the Civil Code. These titles essentially concern obligations to pay sums which in practice are the consequence of non-compliance with obligations linked to a mortgage deed.

The notarial deed does not have to be served prior to the enforceable proceedings.

Application for an EEO

The application can be made to the chief clerk of the court that issued the judgment or recorded the court settlement. Since the Regulation does not impose any formalities in this respect, the application may even be made orally. In this case, the court clerk will draw up a brief note setting out the purpose of the application.

In all cases, the applicant must attach the required documents to the application.

The form containing the European Enforcement Order certificate is issued by the chief clerk of the court that issued the judgment or the court that issued the judgment or recorded the court settlement. For this purpose, the chief clerk or a person designated by him, shall use the standard forms set out in Annex I (European Enforcement Order Certificate - Decision) and

Annex II (European Enforcement Order Certificate - Decision) and Annex III (European Enforcement Order Certificate - Court settlement) of the Regulation.

In contrast to the above, for authentic instruments, Article 25(1) of the Regulation provides that the Regulation provides that the European Enforcement Order certificate is issued by an authority designated by the Member State of origin.

In Belgium, this competence is vested in the notary who will use the form in Annex III (European Enforcement Order Certificate - Authentic instrument) for this purpose.

The issuance of the European Enforcement Order certificate by the registrar or the notary is not subject to any appeal on the merits in accordance with appeal on the merits in accordance with Article 10(4).

The Regulation does not provide the refusal of the chief clerk or the notary to issue the European Enforcement Order certificate.

This means that an application can only be made with the utmost caution and with motivated reasons. Indeed, an applicant who has an application for the issuance of a European Enforcement Order certificate is refused, the applicant can always apply to the judge, in accordance with the ordinary law, so that the chief clerk or the notary is obliged to issue the certificate.

With the issue of the European Enforcement Order certificate by the chief clerk or the notary, the Belgian decision, court settlement or authentic instrument can be enforced in any other Member State without further procedural steps.

Court fees

Court fees are fixed and vary depending on the court before which the proceedings are brought and the stage of the proceedings (first instance or appeal)¹.

The litigation costs and the court fees must be paid at the end of the proceeding by the losing party². The EEO court fee can be paid by either credit transfer, payment order form, electronic transfer, in cash or by cheque (only reserved to lawyers and bailiffs) to the order of the registry of the relevant court³.

2. The decision of certification. In order to issue a European Enforcement Order, the court shall fill in the standard form included in Annex I. In doing so, the court must check a number of

¹ Article 2, Loi modifiant le Code des droits d'enregistrement, d'hypothèque et de greffe en vue de réformer les droits de greffe, 14 OCTOBRE 2018. For more information visit https://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2018101418&table_name=loi, accessed 26 September 2022.

² See European e-Justice Portal, 'Costs; (August 2022) <<https://e-justice.europa.eu/37/EN/costs?BELGIUM&member=1>> accessed 26 September 2022.

³ Also for more details on the litigation costs in Belgium visit the Belgian Federal Public Service (Justice), 'Legal Costs'; (September 2022) <https://justice.belgium.be/fr/services_en_ligne/registre_national_et_frais_de_justice/frais_de_justice>

items (see EC PG II.4.1 and ff.). Amongst those, some relate to rules of national civil procedural law.

- a. **Judgement relating to a pecuniary claim.** A European Enforcement Order may be requested with respect to judgments, i.e. any judgment given by a court of a Member State, whatever the judgment may be called, including a decree, order, decision or writ of execution, as well as the determination of costs or expenses by an officer of the court (Art. 4(1) EEO Reg.) (EC PG II.1.3 and III.1.3). The claim which is the subject of the dispute must be a claim for payment of a specific sum of money that has fallen due (EC PG II.1.1, III.1.1 and III.3.1.2) or for which the due date is indicated in the judgment:
- b. **(follows):** *(Creditors should be advised that such claims may not be certified as EEOs). (Creditors should be advised that such documents may not be certified as EEOs, unless they fall under one of the other two categories of the Reg. (EC) No 805/2004 “authentic instrument” or “court settlement”)*
- c. **The judgment is enforceable.** The judgment to be certified as a European Enforcement Order must be enforceable. However, a certificate may also be issued when the judgment is provisionally enforceable (EC PG II.4.3 and III.3.3):
- d. **Sums covered by the EEO certificate: costs of the proceedings.** The European Enforcement Order certificate may cover not only the specific sum of money object of the claim, but also the amount of costs related to the court proceedings which are included in the judgment if the debtor has not specifically objected to his obligation to bear such costs in the course of the court proceedings in accordance with the law of the Member State of origin (EC PG II.4.1.2): *(If so, creditors should be advised that “an enforceable decision on the amount of costs related to court proceedings, contained in a judgment which does not relate to an uncontested claim, cannot be certified as a European Enforcement Order”)* ⁽⁴⁾.

⁴ CJEU, 14 December 2017, in case C-66/17, *Chudaš v. DA Deutsche Allgemeine Versicherung*.

According to national law, the discipline regarding enforceable judgements in Belgium is the following.

The law of 19 October 2015 on changes to the civil procedure and diverse clauses on justice changed the suspending effect of an appeal. All judgments are now in principle enforceable unless stated otherwise in the judgment. Those include:

- Money judgements
- Judgments ordering or prohibiting acts, or injunctions
- Declaratory judgements

Default judgments are only enforceable after the expiry of the period available for opposing/appealing the judgment of one month from the date of service of the judgment, if not opposed/appealed during that period (Article 1397, Code of Civil Procedure).

A final judgment (that rules definitively on a point in a dispute) is not enforceable if the judge explicitly declares it to be unenforceable pending further appeal proceedings at the request of one of the parties. Such a judgment becomes enforceable once the delay for filing for appeal has passed. Default judgments are only enforceable if the period for opposing/appealing the judgment has passed and the judgment has not been opposed/appealed.

Uncontested claim

The concept of ‘uncontested claims’ should cover all situations in which a creditor, given the verified absence of any dispute by the debtor as to the nature or extent of a pecuniary claim, has obtained either a court decision against that debtor or an enforceable document that requires the debtor’s express consent, be it a court settlement or an authentic instrument.

Art. 3 EEO Regulation distinguishes four situations that could constitute an ‘uncontested’ claim:

- (a) the debtor has expressly agreed to it by admission or by means of a settlement which has been approved by a court or concluded before a court in the course of proceedings; or
- (b) the debtor has never objected to it, in compliance with the relevant procedural requirements under the law of the Member State of origin, in the course of the court proceedings; or
- (c) the debtor has not appeared or been represented at a court hearing regarding that claim after having initially objected to the claim in the course of the court proceedings, provided that such conduct amounts to a tacit admission of the claim or of the facts alleged by the creditor under the law of the Member State of origin; or
- (d) the debtor has expressly agreed to it in an authentic instrument.

In particular Art. 3(b) touches controversial matter. The question arises whether a default of appearance by the debtor could also fall under it. Although this question seems to be covered by Recital 6 of EEO Reg., which explicitly states that a default of appearance indeed can fall under Art. 3(b), this question created controversy.

The CJEU was confronted with such a case, referred to it by the District Court of Bologna⁵. The District Court doubted whether it could issue an EEO for a judgment where the debtor defaulted. Under Italian national procedural law, failing to attend proceedings does not amount to acquiescence to the claim⁶. The CJEU responded by first emphasizing the importance of the autonomous interpretation of concepts in EU law⁷. It went on to find that, in line with Recital 6 of EEO Reg., the default of appearance by the debtor, if he or she was duly informed of the proceedings, could constitute an ‘uncontested claim’ in the sense of the EEO Regulation. The fact that the claim is not considered ‘uncontested’ under Italian law was irrelevant according to the CJEU. The reference in Art. 3(b) to national law relates merely to the detailed procedural rules. Italian doubts also existed in Belgium. Shortly before the judgment by the CJEU, the Belgian Supreme Court found that the default of appearance of the debtor must be seen as a contestation of the claim⁸. This conclusion is based on or at least inspired by internal Belgian law. In a different matter, the CJEU found that an authentic document which has not been contested may not be certified as an EEO: this is not an uncontested claim in the sense of the Regulation⁹. A costs order in proceedings that did not relate to an uncontested claim (but in this case to a declaratory order) is not an independent judgment for purposes of the EEO Regulation and cannot be considered an uncontested claim capable of being certified as an EEO¹⁰.

Costs of the proceedings

Estimating the costs of issuing an EEO certificate in Belgium is difficult without having the specific information about e.g. the value of the claim, the number of pages of the judgements, and whether the judgement needs to be translated. In general, the judiciary costs in Belgium are subject of the Art. 1017 et seq. of the BJC. Art. 1018 of the BJC sets out the costs classed as legal costs, including the issuance of certificates. In the context of the EEO certificate, the typical costs include several fixed fees to obtain such document. These costs include:

- the court registry fees – according to Art. 268 et seq. of the Belgian Code of Registration, Mortgage and Court Registry Fees – that covers registration and other fees. These costs include listing fees (between 30 € and 100 €, depending on the court), drafting fees and certified copy fees (35 €).
- the contribution of 20 € to the budgetary fund for judicial assistance.
- the costs for obtaining an authenticated copy of the judgement (this is calculated based on the number of pages of the judgement). Depending on the language of the judgement, there some translation costs may be applicable.

⁵ Case C-511/14, *Pebros Servizi*, ECLI:EU:C:2016:448.

⁶ As explained in Case C-511/14, *Pebros Servizi*, ECLI:EU:C:2016:448, para. 19.

⁷ Case C-511/14, *Pebros Servizi*, ECLI:EU:C:2016:448, para. 36.

⁸ Supreme Court 15.01.2016, *Rechtskundig Weekblad* 2017–18/8, 305. English summary available at <www.ic2be.eu>.

⁹ Case C-484/15, *Zulfikarpašić v. Gaje*, ECLI:EU:C:2017:199.

¹⁰ Case C-66/17, *Chudaš v. DA Deutsche Allgemeine Versicherung*, ECLI:EU:C:2017:972.

- e. **The claim has remained uncontested under Art. 3(1)(b) EEO Reg.** A claim is considered to be uncontested in the situations listed under Art. 3 EEO Reg. Amongst others, the claim is considered uncontested when the debtor has never objected to it, in compliance with the relevant procedural requirements under the law of the Member State of origin, in the course of court proceedings (Art. 3(1)(b) EEO Reg.) (EC PG II.4.2.2 and III.3.2.2):

There are no specific national rules of civil procedural law in this matter.

- According to Articles 1394 BJC and the Decree of King of 16 June 2016 establishing the entry into force of articles 9 and 32 to 40 of the law of 19 October 2015 modifying the law of civil procedure and laying down various provisions in the field of justice and implementing article 1394 BJC.

The debtor has one month from service to take a position. It has the following options:

- He pays the full amount claimed (including the costs of the RCI procedure). This is worth transaction, and the procedure is closed.
- He disputes the debt and justifies this dispute. This must be done in writing using the response form. In this case, the debt is not undisputed, and the procedure is closed. The creditor will have to appear before the judge if he still wants to try to assert his claim.
- He asks for payment facilities. In this case, the ball is once again in the court of the creditor:
 - a) If he accepts the proposal, the procedure is suspended as long as the debtor respects the plan. However, if the debtor does not pay correctly, the procedure can be resumed.
 - b) If he does not accept the proposal, the debtor will have to make a new proposal or fall back on one of the other possibilities mentioned here.
- He pays only part of the amount claimed. This is equivalent to a no-challenge and the procedure will continue.
- He does not react. In other words, he does not dispute the debt, and the procedure continues.

If within the aforementioned period of one month no payment has been made, no payment plan has been agreed or no reasoned objection has been submitted, a further eight days must be waited. After this period, the bailiff will establish, at the request of the creditor, a report of non-dispute. These 8 additional days are used to carry out any possible negotiations.

In the « Procès-verbal » (hereinafter P.V.) of non-contestation include the reason for which it was established, the amount due for which it was established, and a certain number of other legally required particulars.

This P.V. is declared enforceable by a magistrate who verifies whether the formal conditions are met, via an automated process. Then the judicial officer can make use of this title to launch

the forced recovery. However, the debtor retains the right to go to court at any time and contest the claim on the merits.

- f. The claim has become uncontested under Art. 3(1)(c) EEO Reg. after an initial objection.** A claim is also considered uncontested when the debtor has not appeared or been represented at a court hearing regarding that claim after having initially objected to the claim in the course of the court proceedings, provided that such conduct amounts to a tacit admission of the claim or of the facts alleged by the creditor under the law of the Member State of origin (Art. 3(1)(c) EEO Reg.); this situation occurs when the debtor did participate in the procedure and objected to the claim, but did no longer appear or was no longer represented at a subsequent hearing concerning the claim. In this situation, the court must check that the conduct of the defendant can amount to a tacit admission of the claim or of the facts under the law of the Member State of origin (EC PG II.4.2.3 and III.3.2.3):

Under national procedural law, in this situation it could be applicable the following rule, about the suspension, the postponement and termination of enforcement.

In case of difficulties of enforcement, the debtor party can always file requests before the judge of seizures, who is the judge of enforcement.

Indeed, article 1395, paragraph 1, of the BJC, provides that all requests relating to seizures, enforcement proceedings, security interests and the register of pledges are brought before the seizure judge, acknowledging a very broad material competence to this judge.

In addition, pursuant to article 1396 BJC, the seizure judge has a control function. He must ensure compliance with the dispositions regarding seizures and enforcement measures. He can, even ex officio, be given a report by the judicial officer on the state of the proceedings. If they find negligence, they inform the Public Prosecutor, who assesses the disciplinary facts that it may involve.

- g. Additional checks in case the debtor has not expressly agreed to the claim.** If the debtor has not expressly agreed to the claim, i.e. in the situations under Arts. 3(1)(b) and 3(1)(c) EEO Reg., the court must check additional items. Some of them relate to rules of national civil procedural law.
- i. **Service of the document instituting the proceedings.** The document instituting the proceedings as well as any summons to a court hearing must be served by way of a method recognised by the Regulation ⁽¹⁾. The methods of service

¹¹ If service needs to take place in another Member State, documents must be transmitted to that other Member State in accordance with the rules of Council Regulation (EC) No 1393/2007 on the service in the

accepted are specified in Art. 13 and 14. In general, two types of service are possible: either service with proof of receipt by the debtor or the debtor's representative (Art. 13) or service without proof of receipt by the debtor or the debtor's representative (Art. 14) (EC PG II.2.2 III.3.5.2.1)⁽¹²⁾: (*Creditors should be advised that procedures with such forms of service may lead to a refusal of the EEO certification*)

As regards the rules on service of documents or/and notifications for issuing an EEO certificate or any related document to it, the Belgian civil procedural rules – without prejudice to the minimum standards as set in Art. 13, 14 and 15 of the EEOR – are applicable.

On this account, the Chief Clerk verifies that conditions of Art. 13 (on the service with proof of receipt by the debtor) or Art. 14 (service without proof of receipt by the debtor) of the EEOR have been properly followed. If any of the indicated requirements is missing, the Chief Clerk cannot issue an EEO certificate to the applicant. It is to be noted that the actual service or notification is conducted through the bailiffs in Belgium. Concerning the necessary details to be provided in order to have a valid and effective service of document, Art. 43 BJC refers to a set of information that are necessary to be considered for serving the document upon the party. Art. 13 and 14 of the EEOR have specified a more comprehensive list of information to be provided to the debtor within the service of document and/or notification. Although, the Chief Clerk monitors that the proper information about the debtor has been provided; nevertheless, it remains the sole responsibility of the applicant to ensure that the provided data is in accordance with the rules of Regulation.

According to these practices, there shouldn't be, at a national level, forms of service not complying with safeguards laid down in Art. 13 and ff. of EEO Regulation.

It is to be added that in Belgium there is no enforcing court that reviews service of the proceedings. In principle, the underlying claim of any enforceable judgment will have been reviewed by the judge that ruled on the merits of the case. That judge will have reviewed whether the service of the writ was made in conformity with the rules contained in the BJC.

- ii. **Mandatory information.** A creditor wishing to obtain a European Enforcement Order certificate should ensure that some procedural requirements are complied with. In particular, the document instituting the proceedings on the merits must

Member States of judicial and extrajudicial documents in civil or commercial matters or Regulation (EU) 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast).

¹² *Cure of non-compliance*: if the document instituting proceedings or any summons to a court hearing was not served on the debtor in accordance with Art. 13 or 14, the court may nevertheless certify the judgment as a European Enforcement Order if it is proved by the conduct of the debtor in the court proceedings that s/he has personally received the document to be served in sufficient time to arrange for his defence (Art. 18(2) EEO Reg.) (EC PG II.4.5.2.1 and III.3.5.2.1.2).

be served on the debtor and must contain specified information for the attention of the debtor: due information about the claim (Art. 16) and due information about the procedural steps necessary to contest the claim (Art. 17). The information due under Art. 17 may be contained in the document instituting the proceedings or in an accompanying document and it may also be contained in any subsequent summons to a court hearing (EC PG II.2.1 and III.3.5.2.2):

The national rules on how to file a claim about enforcement of judgement are included in art. 702 BJC, which defines the content of a writ of summons, which is almost commonly used to file this sort of claims:

- The names and domicile of both parties.
- If applicable, the National Registration Number or Enterprise Identification Number of the plaintiff.
- The subject of the claim.
- A short summary of arguments.
- The judge in charge of the proceedings.
- The place, day, and time of the hearing(s).

The judge of attachments (*beslagrechter/juge des saisies*) can review whether the execution of the judgment is carried out in conformity with the relevant judicial legislation (including service of the judgment). However, the judge of attachments cannot review service of the proceedings or render any judgment that would alter the final judgment that was rendered by the courts.

- iii. **Cure of non-compliance.** If the European Enforcement Order is refused by the court due to a lack of due service of the document instituting the proceedings or any summons to a court hearing under Art. 13 or 14 due to a deficient provision of information under Art. 16 or 17, such non-compliance with the minimum standards may be cured and the claimant may make a new application for a European Enforcement Order to the court having delivered the judgment if the requirements under Art. 18(1) EEO Reg. are met (EC PG II.5.1.1, III.3.5.2.2.2 and III.4.1.1):

According to practice elements listed above (letters g. i), there shouldn't be, at a national level, forms of service not complying with safeguards, laid down in Art. 13 and ff. of EEO Regulation.

It is to be added that in Belgium there is no enforcing court that reviews service of the proceedings. In principle, the underlying claim of any enforceable judgment will have been reviewed by the judge that ruled on the merits of the case. That judge will have reviewed

whether the service of the writ was made in conformity with the rules contained in the Code of Civil Procedure.

The rules on how to file a claim are found in the Code of Civil Procedure. Article 702 of the Code defines the content of a writ of summons (which is most used to file a claim at court).

In a circumstance that the minimum requirements for the service of documents and/or notifications are not met, in accordance with national procedural rules, such non-compliance will be remedied under Art. 18 of the EEO. If it is proved for the Chief Clerk that – despite the failure to meet the rules on service of documents and/or notification – the debtor has personally received the documents in a way that s/he had sufficient time to prepare for the defense; therefore, the EEO certificate can be issued.

- iv. **Review in exceptional cases.** The Member State of the court which has given the judgment must offer the debtor the right to apply for a review of the judgment where the conditions under Art. 19 EEO Reg. are met (EC PG II.4.5.2.3 and III.3.5.2.3):

Under Belgian law, there are several courses of actions – depending on the circumstances of each case – available to a party who wishes to request for a review of a judgement.

Firstly, by virtue of Art. 1051 of the BJC, an appeal may be lodged against a judgement within one month of service of the judgement, or within one month of notice of the judgement given under provisions of Art. 792 of the BJC (regardless of the parties' participation in the proceedings).

Secondly, in accordance with Art. 1048 BJC, where a judgement is given in default of appearance of one of the parties, an objection is allowed within one months from the date of the service of the judgement or within one month of notice of the judgement given under provisions of Art. 792 of the BJC.

In cases where none of the above-mentioned remedies (see answer lett. G iii) are applicable and there is no possible remedy available to a judgement, a party may – under specific circumstances – make a request in order to seek an extraordinary review request under provisions of Art. 1133 of the BJC. This application must be lodged before the court within six months from the date of being notified of the judgement with a view to revoke this court decision.

This six-month time-limit for an appeal, objection, or application in extraordinary circumstances for review is not effective if there exists:

- another time-limits as laid down in mandatory provisions in supranational and international law context, or;
- the provision of Art. 50 of the BJC that allows extending a time-limit under certain conditions as laid down by law, or;

- the possibility of applying the general principle of law – that has been repeatedly confirmed and emphasized by the Belgian Court of Cassation – according to which the time-limit to perform an act is extended in favour of a party who has been prevented from performing the act due to *force majeure*.

3. Possible remedies/defences for the parties

- a. If the European Enforcement Order is refused.** The claimant has two options: either appeal the refusal to grant a European Enforcement Order, if such possibility exists under national law, or pursue the enforcement of the judgement in another Member State under the Brussels regime (Reg. (EU) No 1215/2012) (EC PG II.5.1.2 and 4.1.2):

With reference to the appeal to the refusal of granting an EEO, it could be possible to refer to the opposition proceedings filed in the framework of domestic decisions.

The opposition must be lodged before the judge of the court of first instance. The grounds for such opposition are procedural irregularities in the execution of the judgement or the legal validity of the judgement, e.g.:

- Improper service of the judgement.
- In case of money claims when the judgement does not have an order that is certain of a fixed amount, and is due.
- The judgement is not effective anymore (in cases the debt is time-barred or where the debt has been paid or the parties have agreed on a specific payment schedule).

Belgium has appointed the Court of Appeal as the court to which the appeal against the decision on the application for refusal can be lodged.

- b. If the European Enforcement Order contains an error.** If there is a discrepancy between the judgment and the European Enforcement Order certificate which is due to a material error, the claimant or the debtor may apply to the court having delivered the certificate requesting a rectification of the certificate (Art. 10(1)(a) EEO Reg.) (EC PG II.5.2.1.1, II.5.1.3, III.4.1.3 and III.4.2.1.1):

To either rectify or withdraw an EEO certificate in Belgium, the applicant must lodge his/her request before the Chief Clerk of the court that has issued the EEO certificate. Regarding the certificate issued based on an authentic instrument, this request must be submitted to the notary who has issued such certificate. By analogy, Art. 795 of the Belgian BJC provides that requests for interpretation or rectification of a judgement are brought before the judge who has rendered

this judgement. It is noteworthy that the Chief Clerk or notary are both competent to deal with rectification or withdrawal since it is a matter of verifying an objective and already-established subject matter which does not require a judicial assessment by a judge.

In the event of a request for rectification, the Chief Clerk of the judicial body or the notary – in assessing the existence of any disparity between the judgement and the EEO certificate – must find a material error in order to invalidate the issued certificate. If such error is found, it will be corrected, and a new certificate will be issued to the applicant.

In case of withdrawal, as soon as the Chief Clerk of the court or the notary concludes that the certificate does not comply with all the necessary requirements of the EEOR and it has not been properly issued, such certificate will be replaced by a new one. In both cases, the previous certificate loses its legal effect.

The decision of rectification or withdrawal is then communicated to the requesting party also to the defendant in accordance with Art. 32 to 47 of the BJC on the service of documents and/or notifications.

- c. If the European Enforcement Order was clearly wrongly granted. If the European Enforcement Order was granted in violation of the requirements laid down in the Regulation, the debtor may apply to the court having delivered the certificate requesting that the European Enforcement Order certificate may be withdrawn (Art. 10(1)(b) EEO Reg.) (EC PG II.5.2.1.2 and III.4.2.1.2):**

According to the Ministerial Circular of 22 June 2005, the European Enforcement Certificate is not subject to any appeal on the merits.

Article 10 Reg. EEO provides, however, that an application may be made to the court of origin for the rectification of the European Enforcement Order certificate (see Annex VI for the standard form for the application for rectification and/or withdrawal).

In Belgium, this application must be addressed to the chief clerk of the court of origin that issued the European Enforcement Order certificate, or to the notary of the court of origin that issued such a certificate on the basis of an authentic instrument.

In the case of an application for withdrawal, it will be necessary to examine whether the European Enforcement Order certificate meets the the conditions laid down in the Regulation and has not been issued unduly (Article 10(1 b)).

The control of both the rectification and the withdrawal is the responsibility of the chief clerk or the notary, since it is a question of verifying objective and fixed data on which a control by a magistrate is not required.

The rectification and withdrawal have as a consequence that the European Enforcement Order certificate already issued loses its effect. As soon as the material error is corrected (by rectification) or the chief clerk or notary has come to the conclusion that all the conditions of

the Regulation are met (by withdrawal), a new certificate will be issued to replace the previously issued certificate.

The decision to rectify or withdraw is communicated to the applicant(s) and the respondent(s), according to the rules of notification and/or service provided for in the Regulation creating the European Enforcement Order.

- d. If the judgment has ceased to be enforceable or its enforceability has been suspended or limited.** If the judgment has ceased to be enforceable or its enforceability has been suspended or limited under the law of the Member State where the judgment was delivered, the debtor may apply to the court of origin for a certificate indicating the lack or limitation of enforceability (Art. 6(2) EEO Reg.) (EC PG II.5.2.1.3 and III.4.2.1.3):

The competent authority for refusal, stay or limitation of enforcement in Belgium, is always the Court of First Instance sitting in each city of Belgium, e.g., in Brussels the *Nederlandstalige rechtbank van eerste aanleg Brussel* (Dutch)/ *Tribunal de première instance francophone de Bruxelles* (French), and similarly, for instance, in Ghent the *Rechtbank eerste aanleg oost-vlaanderen afdeling Gent* (Court of First Instance East Flanders, Ghent Department).

The enforcement procedures of EU judgements are governed by the law of the Member State of enforcement.

A judgement that is certified as a European enforcement order is therefore enforced under the same conditions as a judgement given by a Belgian court (Art. 20(1) of the EEOR). Similarly, it applies for the court settlements and the authentic instruments under Art. 24(2) and 25(2) of the same Regulation respectively. However, the creditor is obliged to provide the Belgian enforcement authorities with a copy of the EEO certificate, the judgement and, if necessary, a transcription of the EEO certificate or a translation of it into one of the official languages of Belgium (namely French, Dutch, or German) where enforcement is sought (see Art. 20 (2) of the EEOR). The Regulation provides that the translation must be certified by a qualified person in one of the Member States (see Art. 20, paragraph 2, c). As per the conditions laid down in Art. 21(1) of this Regulation, enforcement may be refused if the judgement certified as a European enforcement order certificate is found incompatible – by the Court of First Instance in reviewing the EEO certificate – with an earlier judgement given in any Member State or in a third country.

- e. Appeal against the judgment.** The debtor may challenge the judgment certified as EEO on the merits in accordance with the national procedural law of the Member State where the judgment was issued. If the challenge is unsuccessful and the judgment on appeal is enforceable, the claimant may obtain a replacement certificate using the standard form in Annex V (Art. 6(3) EEO Reg.) (EC PG II.5.2.1.4 and III.4.2.1.4):

The court of appeal is the court to which the appeal against the decision¹³. The decision given on this appeal may only be contested by a petition for Cassation, which must be submitted to the Court of cassation (Court de Cassation).

- f. Review in exceptional cases.** The debtor may lodge a special review against the judgment before the competent court of the Member State where the judgment was issued under the circumstances set forth in Art. 19 EEO Reg. In applying for this special review, the debtor must act promptly (EC PG II.5.2.1.5 and III.4.1.2.5):

Under the national law, the application for review in exceptional cases must be lodged before the court, within 6 months.

This six-month time-limit for an appeal, objection, or application in extraordinary circumstances for review is not effective if there exists:

- another time-limits as laid down in mandatory provisions in supranational and international law context, or;
- the provision of Art. 50 BJC that allows extending a time-limit under certain conditions as laid down by law, or;
- the possibility of applying the general principle of law – that has been repeatedly confirmed and emphasized by the Belgian Court of Cassation – according to which the time-limit to perform an act is extended in favour of a party who has been prevented from performing the act due to *force majeure*.

¹³ See Article 624 BJC.

B. EEO for authentic instruments

1. How and when to ask for the European Enforcement Order. The European Enforcement order certificate must be requested from the competent authorities in the Member State where the instrument was drawn up. In some Member States, the competent authority to deliver the certificate is the notary who has drawn up the act or a representative organization. In other Member States, the competent authority is a court (EC PG IV.2.1):

The European Enforcement Order may be asked at the time when the authentic instrument is being drafted or any time thereafter (EC PG IV.2.2):

The national authority competent to issue the EEO certificate is the notary. There are no administrative formalities prior to the enforcement of authentic instruments.

2. The decision of certification. In order to issue a European Enforcement Order, the competent authority shall fill in the standard form included in Annex III to the EEO Reg. In doing so, the competent authority must check a number of items (*see the EC PG IV.3.1 ff.*). Amongst those, some relate to rules of national civil procedural law.

- a. Authentic instrument relating to a pecuniary claim.** An authentic instrument is defined under Art. 4(3) EEO Reg. (EC PG IV.1.3). The claim which is the subject of the authentic instrument must be a claim for payment of a specific sum of money that has fallen due or for which the due date is indicated in the authentic instrument (EC PG IV.1.1 and IV.3.1.2):
- b. (follows):** (*Creditors should be advised that such authentic instruments may not be certified as EEOs. (Creditors should be advised that such documents may not be certified as EEOs, unless they fall under one of the other two categories of the Reg. (EC) No 805/2004 “judgment” or “court settlement”*)
- c. The authentic instrument is enforceable.** The authentic instrument to be certified as a European Enforcement Order must be enforceable (EC PG IV.3.2):
- d. Costs of the procedure.** The European Enforcement Order certificate may cover also the amount of costs related to the drafting of the instrument which are included in the instrument (EC PG IV.3.1.2):

According to Belgian law, an authentic instrument is proof of its content, which are elements noted and verified by the competent authority. It is binding on the parties, on third parties and on judicial authorities. It is only possible to prove the contrary in a complex procedure similar

to the procedure for challenging a judicial decision on the grounds of judicial bias: the procedure to challenge the authority of a document.

Authentic are: the date, the place where the instrument was drawn up, the fact that the parties have appeared before the notary, that they have made a number of declarations in his/her presence, that they have made certain payments, etc. However, any references the veracity of which the public officer was unable to ascertain in person and which have only been included in the instrument based on the parties' declarations, are only evidenced by the authentic instrument until the contrary is proven according to the rules of ordinary law (Art. 1319-1320 C.C. and Art. 895 et seq. BJC).

In civil matters, the procedure to challenge the authenticity of a document may be principal or incidental. In the latter case, the judge hearing the main case has jurisdiction to rule on the authenticity of a document. In both cases, the judge orders the parties to appear before him/her and orders the defendant in a civil case to produce the alleged false document. If the defendant appears and declares that he/she doesn't wish to use this piece of evidence, the judge takes note of that and has an official report drawn up. However, if the defendant declares that he/she wants to use it, the judge initials the document and orders it to be handed over to the court registry. After having taken all necessary investigatory measures, the judge will rule on the authenticity of the document. If the judge declares it to be false, the ruling is mentioned in the margin of the document in question and an official report is drawn up. The document is seized and sent to the public prosecutor, together with a copy of the ruling declaring it to be false.

3. Possible remedies/defences for the parties

- a. **If the European Enforcement Order is refused.** The claimant has two options: either appeal the refusal to grant a European Enforcement Order, if such possibility exists under national law, or pursue the enforcement of the authentic instrument under the Brussels regime (EC PG IV.4.1.1):

The Regulation does not regulate the refusal of the chief clerk or the notary to issue the European Enforcement Order.

This means that an application can only be refused with the utmost care and with a statement of the reasons for the refusal, according to the Ministerial Circular of 22 June 2005.

Indeed, the applicant who sees his application for the issue of a European Enforcement Order certificate can always apply to the judge, in accordance with the general with ordinary law, so that the chief clerk or the notary is obliged to issue the certificate. In such a case, the State may be held liable. The State may be ordered to pay the costs. An alternative to this procedure is that the applicant, faced with a refusal because the clerk of the court or the notary public alleges that it has not been established that all the conditions of the Brussels I Regulation in a Member State where he wishes to have his judgment or deed enforced. This procedure has the advantage of being quick as it is initiated by a unilateral application, unlike the procedure for the annulment of the refusal.

- b. If the European Enforcement Order contains an error.** If there is a discrepancy between the authentic instrument and the European Enforcement Order certificate which is due to a material error, the claimant may apply to the competent authority in the Member State of origin requesting a rectification of the certificate (Art. 10(1)(a) EEO Reg.) (EC PG IV.4.1.2 and IV.4.2.1.1):

The control of both the rectification and the withdrawal is the responsibility of the chief clerk or the notary, since it is a question of verifying objective and fixed data on which a control by a magistrate is not required.

The rectification and withdrawal have as a consequence that the European Enforcement Order certificate already issued loses its effect. As soon as the material error is corrected (by rectification) or the chief clerk or notary has come to the conclusion that all the conditions of the Regulation are met (by withdrawal), a new certificate will be issued to replace the previously issued certificate.

The decision to rectify or withdraw is communicated to the applicant(s) and the respondent(s), according to the rules of notification and/or service provided for in the Regulation creating the European Enforcement Order.

- c. If the European Enforcement Order was clearly wrongly granted.** If the European Enforcement Order was granted in violation of the requirements laid down in the Regulation, the debtor may apply to the competent authority in the Member State of origin requesting that the European Enforcement Order certificate be withdrawn (Art. 10(1)(b) EEO Reg.) (EC PG IV.4.2.1.2):

The chief clerk or the notary are the ones in charge for the withdrawal of the certificate. The withdrawal occurs when there is a material error. In this case, a new certificate will be issued, according to the Ministerial Circular of 22 June 2005.

- d. If the authentic instrument has ceased to be enforceable or its enforceability had been suspended or limited.** If the authentic instrument has ceased to be enforceable or its enforceability has been suspended or limited under the law of the Member State where the instrument was drafted, the debtor may apply to the competent authority indicating the lack or limitation of enforceability (Art. 6(2) EEO Reg.) (EC PG IV.4.2.1.3):

See above a 3 d

- e. Challenge of authentic instruments.** Under Art. 23 EEO Reg., one of the conditions for stay or limitation of enforcement of an authentic instrument in the Member State addressed is that the debtor challenged an authentic instrument certified as a European Enforcement Order, including an application for review under Art. 19, or applied for rectification or withdrawal (EC PG IV.4.2.2.1):

The reinforced probative value can only be challenged by way of the procedure to challenge the authenticity of a document. This procedure is governed, for civil matters, by Articles 895 et seq. of the BJC.

In civil matters, the procedure to challenge the authenticity of a document may be principal or incidental. In the latter case, the judge hearing the main case has jurisdiction to rule on the authenticity of a document. In both cases, the judge orders the parties to appear before him/her and orders the defendant in a civil case to produce the alleged false document. If the defendant appears and declares that he/she doesn't wish to use this piece of evidence, the judge takes note of that and has an official report drawn up. However, if the defendant declares that he/she wants to use it, the judge initials the document and orders it to be handed over to the court registry. After having taken all necessary investigatory measures, the judge will rule on the authenticity of the document. If the judge declares it to be false, the ruling is mentioned in the margin of the document in question and an official report is drawn up. The document is seized and sent to the public prosecutor, together with a copy of the ruling declaring it to be false.

In civil matters, the judge may immediately rule on the issue if he/she deems it can be ruled upon as it stands. Otherwise, the judge may decide on any necessary investigatory measures;

the judge can either take such measures him or herself or direct that such measures be taken in accordance with the provisions on the verification of documents (Art. 902 BJC).
In criminal matters, if the party who has argued that the document is false alleges that the party who has produced it is the author or an accomplice or, if it emerges in the proceedings that the author or the accomplice is alive and prosecution of the crime is not time-barred, the charge will be prosecuted in due form. In a civil court case, judgment will be suspended until the ruling on the authenticity of the document is issued.

C. *EEO for court settlements*

1. How and when to ask for the European Enforcement Order. A request for a European Enforcement Order must be addressed to the court which approved the court settlement or before which it was concluded (EC PG V.2.1 and V.2.2):

The European Enforcement Order may be asked at any time during the court proceedings or after the approval or conclusion of the court settlement (EC PG V.2.3):

With reference to European Court of Justice decision in CJEU, 17 December 2015, in case C-300/14, *Imtech Marine Belgium*, it is to be recalled the question on who would certify the judgment as an EEO: the judge or the registrar. The *Circulaire*¹⁴ stated that the registrar should execute this, whereas the EEO clearly seems to indicate that judges should do this. This created a widely diverging case law¹⁵, but the *communis opinio*, according to Case C-300/14, *Imtech Marine Belgium NV v. Radio Hellenic SA*, ECLI:EU:C:2015:825, now seems to be that the EEO can only be rendered by a judge.

2. The decision of certification. In order to issue a European Enforcement Order, the court shall fill in the standard form included in Annex II to the EEO Reg. In doing so, the competent authority must check a number of items (*see* the EC PG V.3.1 ff.). Amongst those, some relate to rules of national civil procedural law.

- a. **Court settlement for a pecuniary claim.** A European Enforcement Order may be requested with respect to court settlements, i.e. a settlement which has been approved by a court or concluded before a court in the course of proceedings (Art. 3(1) and Art. 24 EEO Reg) (EC PG V.1.3). The claim which is the subject of the settlement must be a claim for payment of a specific sum of money that has fallen due or for which the due date is indicated in the settlement (EC PG V.1.1 and V.3.1.2):
- b. **(follows):** (*Creditors should be advised that such settlements may not be certified as EEOs, unless they fall under one of the other two categories of the Reg. (EC) No 805/2004 “judgment” or “authentic instrument”*)
- c. **The court settlement is enforceable.** The court settlement to be certified as a European Enforcement Order must be enforceable (EC PG V.3.2):

¹⁴ Omzendbrief van 22 juni 2005 betreffende de Verordening (EG) nr. 805/2004 van het Europese Parlement en de Raad van 21 april 2004, tot invoering van een Europese executorialie titel voor niet-betwiste schuldvorderingen, BS 28 oktober 2005, nr. 2005009832, dossier nr. 2005-06-22/37.

¹⁵ See for some of these cases the IC2BE database.

- d. Sums covered by the EEO certificate: costs of the proceedings.** The European Enforcement Order certificate may cover also the amount of costs related to the court proceedings which are included in the court settlement (EC PG V.3.1.2):

Documents (including settlement discussions) exchanged directly between parties are not confidential unless the parties signed a non-disclosure agreement. Absent such an agreement, statements made in a genuine attempt to settle an existing dispute can be put before the court as evidence of admissions against the interest of the party that made them.

As a rule, written correspondence between opposing lawyers in their capacity as counsel to a party is confidential and cannot therefore be put before the court. However, the confidential character of such correspondence can be lifted in a limited set of circumstances. A communication to an opposing lawyer loses its confidential character when it constitutes or replaces a procedural action (for example, an email in which a lawyer confirms their agreement with fixed dates for the exchange of legal briefs). To avoid any debate on the procedural nature of a communication, it is therefore highly recommended that any confidential correspondence (such as settlement proposals) between opposing lawyers be separated from more official correspondence in relation to the pending proceedings. If a settlement proposal is accepted without reservations, the confidentiality of the settlement proposal and its acceptance is also lifted.

3. Possible remedies/defences for the parties

- a. If the European Enforcement Order is refused.** The claimant has two options: either appeal the refusal to grant a European Enforcement Order, if such possibility exists under national law, or pursue the enforcement of the court settlements under the Brussels regime (EC PG V.4.1.1):

Under the conditions set out in Article 21(1), enforcement may be refused if the judgment certified as a European Enforcement Order certificate is incompatible with a judgment given earlier in any Member State or in a third country, according to Ministerial Circular of 22 June 2005.

- b. If the European Enforcement Order contains an error.** If there is a discrepancy between the court settlement and the European Enforcement Order certificate which is due to a material error, the claimant may apply to the court having approved the settlement or before which the settlement was concluded requesting a rectification of the certificate (Art. 10(1)(a) EEO Reg.) (EC PG V.4.1.2 and V.4.2.1.1):

To either rectify or withdraw an EEO certificate in Belgium, the applicant must lodge his/her request before the Chief Clerk of the court that has issued the EEO certificate. Regarding the certificate issued based on an authentic instrument, this request must be submitted to the notary who has issued such certificate. By analogy, Art. 795 of the BJC provides that requests for interpretation or rectification of a judgement are brought before the judge who has rendered this judgement. It is noteworthy that the Chief Clerk or notary are both competent to deal with rectification or withdrawal since it is a matter of verifying an objective and already-established subject matter which does not require a judicial assessment by a judge.

In the event of a request for rectification, the Chief Clerk of the judicial body or the notary – in assessing the existence of any disparity between the judgement and the EEO certificate – must find a material error in order to invalidate the issued certificate. If such error is found, it will be corrected, and a new certificate will be issued to the applicant.

In case of withdrawal, as soon as the Chief Clerk of the court or the notary concludes that the certificate does not comply with all the necessary requirements of the EEOR and it has not been properly issued, such certificate will be replaced by a new one. In both cases, the previous certificate loses its legal effect.

The decision of rectification or withdrawal is then communicated to the requesting party also to the defendant in accordance with Art. 32 to 47 of the BJC on the service of documents and/or notifications.

- c. If the European Enforcement Order was clearly wrongly granted.** *If the European Enforcement Order was granted in violation of the requirements laid down in the Regulation, the debtor may apply to the court having approved the settlement or before which the settlement was concluded requesting that the European Enforcement Order certificate be withdrawn (Art. 10(1)(b) EEO Reg.) (EC PG V.4.2.1.2):*

In the event of a request for rectification, the Chief Clerk of the judicial body or the notary – in assessing the existence of any disparity between the judgement and the EEO certificate – must find a material error in order to invalidate the issued certificate. If such error is found, it will be corrected, and a new certificate will be issued to the applicant.

Art. 795 BJC provides that requests for interpretation or rectification of a judgement are brought before the judge who has rendered this judgement. It is noteworthy that the Chief Clerk or notary are both competent to deal with rectification or withdrawal since it is a matter of verifying an objective and already-established subject matter which does not require a judicial assessment by a judge.

- d. If the court settlement has ceased to be enforceable or its enforceability had been suspended or limited.** *If the settlement has ceased to be enforceable or its*

enforceability has been suspended or limited under the law of the Member State where it was approved or concluded, the debtor may apply to the court having approved the settlement or before which the settlement was concluded for a certificate indicating the lack or limitation of enforceability (Art. 6(2) EEO Reg.) (EC PG V.4.2.1.3):

There are no additional elements to be added to what expressed in A3. d

- e. Appeal against the court settlement.** The debtor may challenge the court settlement on the merits in accordance with the national procedural laws of the Member States. If the challenge is unsuccessful and the judgment on appeal is enforceable, the claimant may obtain a replacement certificate using the standard form in Annex V (Art. 6(3) EEO Reg.) (EC PG V.4.2.1.4):

If the settlement has been incorporated in a judgment, then ordinary appeals will be available against it.

If, on the other hand, the measure to be enforced is the court record itself containing the settlement (certified as EEO), it may be challenged in the same way as for authentic instruments, through the challenge of forgery.

III. Incoming

When [BE, DE, FR, HR, IT, LT, LU] is the Member State of enforcement

According to Art. 20(1) EEO Reg., “[a] judgment certified as a European Enforcement Order shall be enforced under the same conditions as a judgment handed down in the Member State of enforcement” (see also Art. 24(3) and Art. 25(3) EEO Reg. for court settlements and authentic instruments). Thus, the procedure for the enforcement of the EEO mirrors the procedure for the enforcement of any other national title. Additionally, Reg. (EC) No 805/2004 establishes specific remedies or defences for the parties.

A. Enforcement of the EEO for the creditor

Once the claimant has obtained a judgment, authentic instrument or court settlement certified as a European Enforcement Order, s/he may apply for enforcement in the Member State of enforcement. The judgment, court settlement or authentic instrument certified as a European Enforcement Order is treated as if it was given in the Member State of enforcement and it shall be enforced in the same way as a national judgment, court settlement or authentic instrument.

1. Competent court or authority. The claimant must apply for enforcement with the court or authority competent for the enforcement of a judgment, authentic instrument or court settlement certified as a European Enforcement Order in the Member State of enforcement (EC PG VI.1):

The authority competent for the enforcement is the bailiff (*huissier de justice*). Their territorial distribution is easily identifiable, by inserting the postal code and the “*arrondissement*” of the defendant on the website: <http://www.huissiersdejustice.be/bailiff>

2. Documents to be produced by the claimant. In order to request in a Member State enforcement of a judgment, authentic instrument or court settlement certified as a European Enforcement Order the claimant shall produce the documents listed in Art. 20 EEO Reg. (EC PG VI.2):

Under Article 20(2)(c) of the Regulation (EC) No 805/2004, a copy of the judgment and a copy of the European Enforcement Order certificate must be accompanied by a translation of the certificate in the official language of the place of enforcement, i.e. Dutch, French or German.

The list indicating which language applies can be found in the manual of the receiving agencies for Regulation (EC) No 1348/2000 on the service in the Member States of judicial and extra-judicial documents in civil or commercial matters.

- 3. Enforcement authorities.** The enforcement authorities must check whether the claimant produces the necessary documents for enforcement. If the necessary documents are produced, the judgment, authentic instrument or court settlement certified as a European Enforcement Order shall be enforced under the same conditions as a judgment, authentic instrument or court settlement handed down in the Member State of enforcement (EC PG VI.3):

According to national law, there is no enforcing court that reviews service of proceedings. In principle, the underlying claim of any enforceable judgment will have been reviewed by the judge that ruled on the merits of the case. That judge will have reviewed whether the service of the writ was made in conformity with the rules contained in the Code of Civil Procedure.

B. Possible remedies/defences for the debtor

- 1. Refusal of enforcement of a judgment.** The debtor has the possibility to apply for a refusal of enforcement of a judgment (Art. 21 EEO Reg.) if the judgment certified as a European Enforcement Order is irreconcilable with an earlier judgment given in any Member State or in a third country (EC PG II.5.2.2.1 and III.4.2.2.1):

- 2. Limitations on enforcement.** The competent enforcement authorities may refuse, limit or stay enforcement according to the provisions of Chapter IV of the EEO Reg. Without prejudice to the above, the grounds for refusal or suspension of enforcement under national law continue to apply (EC PG VI.4):

As per the conditions laid down in Art. 21(1) of EEO Regulation, enforcement may be refused if the judgement certified as a European enforcement order is found incompatible, by the Court of First Instance in reviewing the EEO certificate, with an earlier judgement given in any Member State or in a third country.

So, competent for this procedure is the Court of First Instance.

There are no procedural steps or conditions in the matter.

No enforcement proceedings are necessary for domestic judgements. A judgement by a Belgian court is directly enforceable without further proceedings being necessary.

3. Refusal of enforcement of a court settlement or an authentic instrument. Art. 24(3) and Art. 25(3) explicitly exclude the applicability of Art. 21(1) EEO Reg. to authentic instruments and court settlements; only Art. 21(2) (prohibition of a review of the title on its merits) is applicable (EC PG IV.4.2.2 and V.4.2.2). This does not automatically exclude the applicability of national grounds for the refusal of enforcement of an authentic instrument or a court settlement (arg. ex Art. 20(1) EEO Reg.):

According to Belgian national law, the “attachment judge” (*juge des saisies*) is competent for ruling a stay, limitation or refusal of enforcement. An application must be submitted to the judge in accordance with article 1395 BJC. The applicant must pay a court registry fee which is 82 € and a pleading fee of € 2.50 (in case of intervention of a lawyer).

4. Stay or limitation of enforcement of a judgment, court settlement or authentic instrument. The debtor may apply for a stay or limitation of enforcement of a judgement, authentic instrument or court settlement under Art. 23 EEO Reg. (EC PG II.5.2.2.2, III.4.2.2.2, IV.4.2.2.1 and V.4.2.2.1):

Where the debtor has lodged an appeal, an application for review (Article 19), or an application for rectification or withdrawal (Article 10), the competent court may, at the request of the debtor:

- limit the enforcement proceedings to protective measures (Article 23(2)(a)),
- request the security (Article 23(2)(b))
- suspend the enforcement proceedings (Article 23(2)(c))