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Template for the EFFORTS Practice Guide for the application of the Regulation on the European Order for Payment

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I. Introduction

The paragraphs below address the implementation of Regulation No 1896/2006 (as amended by Regulation No 2015/2421) creating a European order for payment (hereinafter indicated as “EOP” and “EOP Reg.”) into the national law of Germany. In doing so, it integrates and supplements the European Practice Guide published by the Commission on the [e-Justice Portal](#)⁽¹⁾, which expressly recognizes that questions that are not regulated by the Regulation itself should be governed by national procedural law⁽²⁾.

Following the structure of the European Practice Guide, the present section will address in turn the questions related to the scope of application of the EOP procedure (II), the issues arising in connection with the procedure itself (III), and finally the procedural rules related to the recognition and enforcement in Germany of EOPs rendered in another Member State (0).

II. Scope of application of the EOP procedure

1. Cross-border case. The EOP Regulation applies only in cross-border cases. Art. 3 EOP Reg. defines such a case as one in which at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the court seized (EC PG II.2.2.). In this respect, Art. 3(2) EOP Reg. provides that the domicile should be determined according to Art. 59 and 60 Brussels I Regulation (today Art. 62 and 63 BI bis). According to these provisions, the domicile of physical persons should be determined in accordance with internal law.

The German national rules on how to determine a person’s domicile are laid down in § 7 et seq. German Civil Code (*Zivilprozessordnung*, hereinafter: ZPO). Generally, a person who settles permanently in a place establishes his domicile in that place (§ 7 (1) ZPO). According to German law, a person may have more than one domicile (§ 7 (2) ZPO). Special rules exist in regard to persons lacking full capacity, soldiers and children.

¹ The European Practice Guide prepared by the Commission is available at: ‘European E-Justice Portal – European Payment Order’ <https://e-justice.europa.eu/41/EN/european_payment_order> accessed 13 April 2022.

² As explained by the Practice Guide of the Commission (EC PG I): “National law is applicable, on a subsidiary basis, to questions which are not regulated in the EOP Regulation”.

III. The EOP procedure

When Germany is the Member State of origin

A. Application for an EOP

1. **Amount claimed.** Pursuant to Article 7 EOP Reg., an application for a EOP shall be made using the annexed standard form A and should state the amount of the claim, including the principal and, where applicable, interest, contractual penalties and costs.

a. **Principal.** The EOP procedure is available for the collection of pecuniary claims for a specific amount that have fallen due. Nevertheless, procedural rules of the Member State of origin may regulate certain aspects regarding the amount of money to be claimed.

b. **Calculation of interest.** The EOP Regulation provides that details of the interest rate and the period of time for which interest is demanded should be provided in section 7 of Form A (EC PG III.1.1.), unless statutory interest is automatically added to the principal under the law of the Member State of origin (Art. 7(2)(c) EOP Reg.). Regarding the relevant time period for the calculation of interest, the guidelines for the completion of Form A state that if interest is demanded up to the date of the decision of the court the last date box should be left blank, while the Regulation is silent about whether interest can be claimed after that date (EC PG III.1.1.).

c. **Costs.** The details of any costs due are included in section 9 of Form A. While the main costs envisaged here are court fees, the guidelines for the completion of Form A state that other costs could include the fees of a claimant's representative or pre-litigation costs. In accordance with Art. 25 court fees can include fees and charges paid to the court, the amount of which is fixed in accordance with national law. The guidelines also clarify that if the court fees are not known by the claimant the amount box can be left blank to be completed by the court (EC PG III.1.1.).

Under German law, the claimant is not obliged to sue for the whole amount of a claim. He is entitled to claim the rest of the amount in a later proceeding (*Teilklage*).

Although the claimant is in principle allowed to claim a certain amount in a foreign currency, the court will subsequently convert this amount into EUR for means of enforcement.

It is possible to claim the accrued interest until the time of the decision, even though it is still unforeseeable when exactly the future decision will be. It is noteworthy that interest rates are not calculated according to § 247 Civil Code (*Bürgerliches Gesetzbuch*, hereinafter: BGB) as in national proceedings.

Cost may include court fees, lawyer's fees and other costs that the creditor may have incurred prior to the initiation of proceedings (such as collection expenses). They are calculated in accordance with the general German regulations on costs (especially the law on costs for court proceedings (*Gerichtskostengesetz*), hereinafter: GKG) and the law on lawyers' remuneration (*Rechtsanwaltsvergütungsgesetz*), hereinafter: RVG).

2. Cause of action and description of evidence. The EOP Regulation requires the claimant to state the cause of the action – including a description of the circumstances invoked as the basis of the claim and, where applicable, of the interest demanded – and to provide the court with a description of evidence supporting the claim (Art. 7(2)(d)(e) EOP Reg.). *The Regulation does not specify the level of detail that an applicant should provide, nor does it prescribe the way that a court should carry out the examination of a claim (EC PG III.1.2.).*

a. General rule. There is no requirement to attach supporting documentation, but applicants are free to do so if they wish. Section 11 allows the applicants to provide additional statements and further information, if necessary (*ibid.*).

b. Consumer contracts. The European Court of Justice has clarified that in cases involving consumer contracts, the competent authority is allowed to request from the creditor additional information relating to the terms of the agreement relied on in support of the claim at issue, in order to carry out an *ex officio* review of the possible unfairness of those terms ⁽³⁾.

It is disputed in German academic literature whether the claimant is required to name any evidence at all. However, the majority of legal scholarship seems to support the view that the claimant has to name at least some evidence in order for the application being admissible.

³ CJEU, 19 December 2019, in cases C-453/18 and C-494/18, *Bondora AS v. Carlos V.C. and Bondora AS v. XY*.

In accordance with the ECJ's *Bondora*-rulings, an *ex officio* review will be conducted in case of a consumer case. In this case, the court is also entitled to request further evidence. However, there are no implementation rules for these rulings. Therefore, the required evidence in consumer cases is still surrounded by unfortunate legal uncertainties.

3. Competent courts. The competent courts for the EOP are those that have been designated by the Member States and officially notified to the Commission (EC PG III.1.3). Should the application be sent to a court that is not competent, it is a matter for national law what action that court should take (*ibid.*). Hence, the EOP Regulation does not directly designate the national court competent to deal with applications under the EOP procedure. Indeed, Art. 5 EOP Reg. defines the term "court" as "any authority in a Member State. Similarly, Art. 6 EOP Reg. provides that the jurisdiction for claims made under the EOP procedure is to be established in accordance with the Brussels I Regulation⁴), but does not lay out any rules of territorial competence allocating cases among the competent national authorities.

As the competence for all questions regarding an EPO is centralized exclusively with the local court (*Amtsgericht*) Berlin-Wedding, this is also the competent court for issuing an EPO (§ 1087 ZPO). Functionally, competence lies with the judicial officer (§ 11 No. 7 RPflG).

The postal address of the local court Berlin-Wedding is:
Amtsgericht Berlin-Wedding
Brunnenplatz 1
13357 Berlin, Germany

4. How to submit an application for an EOP. Art. 7(5) EOP Reg. provides that: "The application shall be submitted in paper form or by any other means of communication, including electronic, accepted by the Member State of origin and available to the court of origin". Furthermore, Art. 7(6) EOP Reg. provides that the application shall be signed by the claimant or, where applicable, by his representative, and that where the application is submitted in electronic form in accordance with par. 5,

⁴ Which has today been replaced by the BI bis Regulation (Regulation No 1215/2012). This rule is however subject to one exception. When the case concerns a consumer contract and the consumer is the defendant, the jurisdiction has to be that of the Member State where the defendant is domiciled (EC PG II.4).

it shall be signed in accordance with Art. 2(2) of Directive 1999/93/EC. However, the last requirement does not apply if the Member State of origin has set up an electronic communications system which is available to a certain group of pre-registered authenticated users and which permits the identification of those users in a secure manner.

The application for the issuance of an EPO has to be transmitted to the court in a form that is machine-readable (§ 1088 (1) ZPO). The application form (https://e-justice.europa.eu/dynform_get_empty_pdf_action) is provided on the website of the local court Berlin-Wedding and can be transmitted either per mail or online. The application can be completed in the eJustice portal of the European Union and submitted via a sender-authenticated De-Mail, via the special electronic lawyer's mailbox (*elektronisches Anwaltspostfach*), via the notary's mailbox (*Notarpostfach*), via the public authority mailbox (*Behördenpostfach*) or via the electronic citizens' and organisations' mailbox (*elektronische Bürger- und Organisationspostfach*) as pdf-files. Note however, that the form has to be completed in German.

5. Appendix to the application. Pursuant to Art. 7(4) EOP Reg., the claimant may indicate to the court whether s/he opposes a transfer to civil proceedings within the meaning of point (a) or point (b) of Art. 17(1) EOP Reg. in the event of opposition by the defendant. Alternatively, the claimant may also indicate which, if any, of the procedures listed in points (a) and (b) of Art. 17(1) EOP Reg. s/he requests to be applied to his claim in the subsequent civil proceedings in the event that the defendant lodges a statement of opposition against the European order for payment. This does not prevent the claimant from informing the court thereof subsequently, but in any event before the order is issued.

The defendant may file for opposition with the exclusively competent local court Berlin-Wedding (§ 1087 ZPO). The application may be submitted by the same means as an application for issuance of an EPO (as described above).

After the application for opposition is received, it is solely up to the claimant to designate the court competent for the main proceedings (§ 1090 (1) ZPO). The defendant will be informed by the court about its request to the claimant to indicate the competent court for the main proceeding.

The application form may be found here https://e-justice.europa.eu/dynform_get_empty_pdf_action (in German).

B. Conduct of the procedure before the court

1. Examination of the application. Pursuant to Art. 8 EOP Reg., The court seized on an application for an EOP shall examine, as soon as possible and on the basis of the application form, whether the claim falls within the scope of the EOP procedure, whether the application complies with the requirements set out in Art. 7 EOP Reg., and whether the claim appears to be founded. Furthermore, the Regulation makes clear that the examination of an application for an EOP need not be carried out by a judge and, under Art. 8 EOP, may take the form of an automated procedure (EC PG III.1.2).

For the filing of opposition, the same rules for jurisdiction apply as in regard to the issuance of the EOP (see above). The application form will be examined manually.

2. Completion and rectification. If the application for an EOP does not meet the requirements of Art. 7 EOP Reg., i.e., it is incomplete or contains an error, the court which has jurisdiction shall give the claimant the opportunity to complete or rectify the application (see Art. 9 (1) EOP Reg.) using the standard form B as set out in Annex II (EC PG III.5.1.1.). Where the court requests the claimant to complete or rectify the application, it shall specify a time limit it deems appropriate in the circumstances. The court may, at its discretion, extend that time limit (EC PG III.2.1.)⁽⁵⁾.

There are no specific implementation rules for completion and rectification under German law. The claimant may communicate with the court by the same means permitted for the initial application (see above). The court has to serve any information to a claimant located abroad by the means provided for in the European Service Convention. In case the claimant is located within Germany, he may be served according to the rules laid down in §§ 168 et seq. ZPO. This will usually be done by registered mail, return receipt requested. Electronic

⁵ See also EC PG III.5.1.1.

communication is only permitted in several exceptional cases, e.g. to a lawyer who can provide for secure means of electronic communication.

3. Modification of the application. If the requirements are met for only part of the claim, the court shall inform the claimant to that effect. The claimant shall be invited to accept or refuse a proposal for an EOP for the amount specified by the court and shall be informed of the consequences of his decision, by using form C.

a. Acceptance of the proposal. If the claimant accepts the court's proposal, the court shall issue an EOP for that part of the claim accepted by the claimant. The consequences with respect to the remaining part of the initial claim shall be governed by national law (EC PG III.2.1.)⁽⁶⁾. In such cases does national law prevent the claimant from filing a new claim/action with respect to the remaining part of the initial claim?

b. Time limits. The claimant shall reply within the time specified by the court (see Art. 9(2) EOP Reg.) using standard form C. If the claimant fails to send his reply within the time limit specified by the court, the court shall reject the application in its entirety. *See above §2 "Completion and rectification".*

The court communicates with the claimant in the ways described above. German national law considers the acceptance of such proposal a (partly) withdrawal of legal action (§ 269 ZPO). The claimant is not prevented from filing a new claim in respect of the remaining part of the initial claim.

4. Rejection of the application. The court shall reject the application, using form D, if: (i) the requirements set out in Art. 2, 3, 4, 6 and 7 EOP Reg. are not met; or (ii) the claim is clearly unfounded; or (iii) the claimant fails to send his reply (in response to the court's proposal to modify the application) within the time limit specified by the court; or (iv) the claimant fails to send his reply within the time limit specified by the court or

⁶ See Art. 10 EOP Reg.

refuses the court's proposal, in accordance with Art. 10 EOP Reg. The claimant shall be informed of the grounds for the rejection (EC PG III.2.2.).

The decision is communicated in the ways described above.

C. Issuing & serving the EOP

1. Completion of Form E. Once the application (Form A) has been lodged and, if necessary, duly modified or rectified at the court's request, the court issues the EOP using form E as set out in Annex V when, if applicable, the relevant court fees have been paid (EC PG III.3.1.).

The initial examination and the issuance of the EOP are carried out by the same authority. The costs for the EPO proceedings amount to factor 0,5 of the fee assessed for the value of the claim (§ 34 Court Fees Act (Gerichtskostengesetz, hereinafter: GKG) in conjunction with No. 1100 Cost Chart (Kostenverzeichnis, hereinafter: KV) GKG). However, a minimum amount of EUR 38 has to be charged. The costs for the EPO are identical to those for domestic payment proceedings. In the event of an opposition and main proceedings at the designated court, the fee for the EPO proceedings is deducted from the court costs for the main proceedings, which is factor 3,0 of the fee assessed for the value of the claim.

2. Service of the EOP on the defendant. The EOP has to be served on the defendant in accordance with the national law of the Member State of origin. However, such a method has to meet the requirements set as minimum procedural standards in the Regulation (Art. 13 to 15 EOP Reg.). In general, two types of service are possible: either service with proof of receipt by the debtor (Art. 13 EOP Reg.) or service without proof of receipt by the debtor (Art. 14 EOP Reg.); each of them can be used in relation to the defendant's representative (EC PG III.3.3.). Additionally, Form E reminds the defendant of his rights and options (EC PG III.3.1.).

Where the EEO is granted, it will be served *ex officio* within Germany (§1089 (1) ZPO). If it needs to be served abroad, this will be done in accordance with the rules of the European Service Regulation (§ 1089 (2) ZPO). For service within Germany, all modes of service except service by publication are permitted. Service in a foreign state which is not a member of the EU will usually be possible by the rules of the Hague Service Convention.

D. Opposition (defendants' rights/options)

1. Opposition to the EOP. A defendant can lodge a statement of opposition to the EOP by making use of Form F in accordance with Art. 16 EOP Reg. It is not necessary for the defendant to give reasons for his/her opposition. The statement of opposition should be sent within 30 days of service of the order on the defendant. The period is calculated in accordance with Council Regulation (EC) No 1182/71 determining the rules applicable to periods, dates and time limits (OJ. EC 1971 L 124/1) (EC PG III.4.1.)⁽⁷⁾. The statement of opposition should be submitted in either paper form or by any other means of communication, including electronic, accepted in the Member State of origin and available to the court of origin. The statement of opposition can also be made by a representative of the defendant (*ibid.*).

The defendant may file for opposition with the exclusively competent local court Berlin-Wedding (§ 1087 ZPO). The application may be submitted by the same means as an application for issuance of an EPO (as described above).

2. Effect of the lodging of a statement of opposition. In accordance with Art. 17(1) EOP Reg. if a defendant submits an admissible statement of opposition the proceedings shall continue before the competent courts of the Member State of origin in accordance with the rules of ordinary civil procedure unless the claimant has explicitly requested that the proceedings be terminated in that event. Under Art. 7(4) EOP Reg. the claimant can make such a request at any time until the EOP is issued (see *supra*, pt. 5). In accordance with Art. 17(2) EOP Reg. the transfer to ordinary civil proceedings is governed by the law of the Member State of origin. Nothing under national law shall prejudice the claimant's position in any subsequent ordinary civil proceedings (EC PG III.4.1.).

In case an opposition pursuant to Art. 17 (2) EPOR is lodged, the court sets a reasonable period of time for the claimant to designate the court competent for the main proceedings (§ 1090 (1) ZPO). The competent court is to be determined exclusively by national German civil procedure law (§§ 12 et. seqq. ZPO). It is indicated to the claimant that the designated

⁷ See also EC PG III.5.2.1.

court for the main proceedings will assess its own competence (§ 1090 (1) ZPO). The defendant receives a notification about the court's request to the claimant (§ 1090 (1) ZPO). If the claimant does not designate a court for the main proceedings within the time period set by the court, the EPO is repealed and the proceedings pursuant to the EPOR are terminated (§ 1090 (1) ZPO).

After the claimant has designated the competent court for the main proceedings within the time limit, the court that has issued the EPO transfers the proceedings *ex officio* to the court designated by the claimant (§ 1090 (2) ZPO) by incontestable order of a judicial officer (§ 20 No. 7 RPflG). The parties are informed of the judicial officer's order for transferal (§§ 1090 (2), 696 (1) ZPO). The judicial officer's dismissal of the transmission is, however, contestable. Appeal can be made to the regional court (Landgericht) (§ 11 (1) RPflG, § 567 (1) ZPO).

The main proceedings continue at the court designated by the claimant as soon as it receives the court files (§§ 1090 (2), 696 (1) ZPO). At that point in time, the proceedings pursuant to the EPOR come to a close and the proceedings are exclusively governed by national law. The court decides on its jurisdiction independently pursuant to the relevant provisions on jurisdiction. After receiving the court files, the court registry of the designated court without undue delay orders the claimant to provide the reasons on which he is basing his claim within two weeks (§§ 1091, 697 (1) ZPO). After receiving the substantiated claim, the proceedings are continued pursuant to the general rules on contentious procedures.

The claimant may withdraw his petition to instigate the main proceedings until the respondent is to be first heard on the merits of the case (§§ 1090 (2), 696 (4) ZPO).

3. Enforceability. If no statement of opposition is lodged within the 30-day period the EOP is declared enforceable, subject to the court allowing sufficient time for the statement of opposition to arrive. (EC PG III.4.1.). The court will use Form G to declare that the EOP is enforceable and will send this to the claimant (*ibid.*). In accordance with Art. 18(2) EOP Reg., the formal requirements for enforceability are governed by the law of the Member State of origin (*ibid.*).

An EPO can be enforced pursuant to the national enforcement rules without this requiring a court certificate of enforceability (§ 1093 ZPO). For further details, see the template about national law of enforcement.

E. Possible remedies/defences for the parties

1. **Remedies available to the claimant.** See *supra*, pts. (B) 2-4.

2. **Lodging of a statement of opposition.** See *supra*, pts. (D) 1-2.

3. **Review in exceptional cases in the Member State of origin (Art. 20(1) EOP Reg.).** Once the 30-day period for lodging a statement of opposition has expired, the defendant shall be entitled to apply for a review of the EOP before the competent court in the Member State of origin in the following cases:
 - a. The order was served by one of the methods provided for in Art. 14 EOP Reg., i.e. without proof of receipt by the defendant, and service was not effected in sufficient time to enable him to arrange for his defence, without any fault on his or her part.

 - b. The defendant was prevented from objecting to the claim by reason of force majeure or due to extraordinary circumstances without any fault on his part, provided in either case that he acts promptly (EC PG III.5.2.2.).

4. **Review in the Member State of origin where the European Order for Payment was wrongly issued (Art. 20.2 EOP Reg.).** Once the 30-day period for lodging a statement of opposition has expired, the defendant shall be entitled to apply for a review of the EOP before the competent court in the Member State of origin where

the order was clearly wrongly issued, having regard to the requirements laid down in the Regulation, or due to other exceptional circumstances (EC PG III.5.2.3.).

Exclusive jurisdiction for review proceedings on the grounds set out in Art. 20 EPOR also lies with the local court Berlin-Wedding (§ 1087 ZPO). Unlike the other proceedings under the EPOR, functional jurisdiction lies with the judge instead of a judicial officer (§ 1087 ZPO).

The review procedure requires an application which may be made in writing or declared at the court registry. The respondent has to substantiate the facts and circumstances on which the repeal of the EPO is based and has to demonstrate facts to the satisfaction of the court only (§§ 1092 (2), 294 ZPO). This constitutes a lowered standard of proof compared to the one applied in regular court proceedings (*Glaubhaftmachung*). The court transmits the application for review to the claimant and, thus, gives the claimant the opportunity to respond. During the review proceedings, the court may pass interim orders in order to secure the review process (§§ 1095, 707 ZPO). The decision regarding the application for review of the EPO is delivered by an incontestable court order (§ 1092 (1) ZPO).

If the application for review is justified, the court revokes the EPO (§ 1092 (3) ZPO); the EPO proceedings are thereby terminated. In the event that the application for review is rejected, however, the EPO continues to have legal effect. In addition, possible interim orders are repealed.

5. Remedy in case of lack of service of the initial EOP. In cases C-119/13 and C-120/13, the European Court of Justice held that the procedures laid down in Art. 16 to 20 EOP Reg. are not applicable where it appears that a EOP has not been served in a manner consistent with the minimum standards laid down in Art. 13 to 15 EOP Reg.⁽⁸⁾.

According to § 1092a ZPO, the respondent may apply for suspension of the EPO at the local court (*Amtsgericht*) of Berlin-Wedding, if the EPO was either not served correctly pursuant to Art. 13-15 EPOR or was not served at all. The application has to be filed within a period of one month. The time limit commences when the respondent was positively aware or should

⁸ CJEU, 4 September 2014, in cases C-119/13 and C-120/13, *eco cosmetics GmbH & Co. KG v Virginie Laetitia Barbara Dupuy*, and *Raiffeisenbank St. Georgen reg. Gen. mbH v Tetyana Bonchuk*.

have been aware of the issuance of the EPO (§ 1092a (1) ZPO). It may be made in writing or declared at the court registry (496 ZPO).

The applicant must state the facts which justify the defects in service, insofar as they are not obvious or known to the court (§§ 1092a (3), 1092 (2) ZPO). However, if these facts are not already presented in the application, it is also sufficient if the defendant presents them later upon notice of the court.

If the application is successful, the EPO is annulled and, in the case of the EPO already being declared enforceable pursuant to Art. 18 EPOR, the enforcement is declared inadmissible.

IV. Recognition and enforcement of EOP in other Member States

When Germany is the Member State of enforcement

1. Competent authorities and applicable law. The authorities in the Member State of enforcement cannot review the circumstances or procedures that led to the issuing of the order except in the situations provided for by Arts. 22 and 23 (*see below*). No review as to the substance is allowed in the Member State of enforcement (EC PG IV.1.). The procedure for enforcement is governed by the law of the Member State of enforcement, without prejudice to the provisions of the Regulation (*ibid.*). The claimant must apply for enforcement to the court or authority competent for enforcement in the Member State where enforcement is required (EC PG IV.2.).

An EPO can be enforced pursuant to the national enforcement rules without this requiring a court certificate of enforceability (§ 1093 ZPO). For further details, see the template about national law of enforcement.

2. Documents for enforcement. The claimant should provide the competent court or authority with a copy of the order, as declared enforceable by the court of origin, which satisfies the conditions necessary to establish its authenticity, and a declaration of enforceability (form G) (EC PG IV.2.).

Generally, the claimant only has to provide the court with an executed copy of the EOP and a certificate of enforceability. If the creditor is to submit a translation pursuant to Article 21 (2) EAPOR, this is to be in German and is to be certified by a person qualified to do so in one of the Member States of the European Union (§ 1094 ZPO).

For the costs of enforcement proceedings in Germany and their allocation see the template about enforceability in national laws.

3. Languages and translations. The claimant may be required to provide a copy of the EOP in a different language from that used by the court of origin. As a general rule

the EOP should be provided in the official language, or one of the official languages, of the Member State of enforcement unless that Member State has indicated that it will accept orders in another official language or languages of the European Union. Details of which languages are accepted by each Member State are available on the European Judicial Atlas. When checking the details a claimant should also bear in mind that in Member States where there is more than one official language it may be necessary to provide a translation into the language specified for a particular part or region of that Member State. Any translation shall be certified by a person qualified to do so in one of the Member States (EC PG V.3.).

If the creditor is to submit a translation pursuant to Article 21 (2) EAPOR, this is to be in German and is to be certified by a person qualified to do so in one of the Member States of the European Union (§ 1094 ZPO).

4. Application for refusal of enforcement under Art. 22 EOP Reg. The defendant has the possibility to apply for a refusal of enforcement if one of the grounds for refusal set out in Art. 22 EOP Reg. apply (see EC PG IV.4.1.).

The defendant may apply to the local court (*Amtsgericht*) for refusal enforcement based on the grounds provided in Art. 22 (EPOR (§§ 1096, 1084 ZPO)). In terms of local jurisdiction, either the local court at the place of enforcement (§ 764 (2) ZPO) or the local court at the debtor's place of residence (§§ 828 (2), 12, 13 ZPO) is competent. In case the debtor does not have a residency within Germany, the local jurisdiction lies with every local court where assets of the debtor are located (§§ 828 (2), 23 ZPO). If these rules lead to more than one competent court, the debtor may choose freely with which of the competent courts he wishes to file his application (§ 35 ZPO). The functional competence lies exclusively with the judge.

The decision on the application for a refusal of enforcement as to the application pursuant to Art. 22 (1) EPOR is delivered by court order (§§ 1096 (1), 1084 (2) ZPO). Following the general procedural requirements under German law, the creditor has a right to be heard and is therefore entitled to explain his point of view to the court. Nonetheless, full oral proceedings are merely optional (§ 128 (4) ZPO). Before deciding on the request for refusal, the court can make a temporary arrangement by means of an interim order (§§ 1084 (2), 769 (1) ZPO).

Furthermore, the defendant may apply for refusal of enforcement based on the grounds set out in Art. 22 (2) EPOR with the courts of first instance at the place of enforcement or at the place of the debtor's place of residence (§§ 1096 (2), 1086 (1), 767 ZPO).

5. Stay or limitation of enforcement Art. 23 EOP Reg. The defendant may apply for a stay or limitation of enforcement of the EOP (see Art. 23 EOP Reg.) where the defendant has applied for a review within the meaning of Art. 20 EOP Reg. In such cases, the competent court in the Member State of enforcement may: (i) limit the enforcement proceedings to protective measures; or (ii) make enforcement conditional on the provision of such security as it shall determine; or (iii) under exceptional circumstances, stay the enforcement proceedings (see EC PG IV.4.2.).

The defendant may apply to the local court (*Amtsgericht*) for stay or limitation of enforcement based on the grounds provided in Art. 22 (1), 22 (2) and 23 EPOR (§§ 1096, 1084 ZPO). In terms of local jurisdiction, either the local court at the place of enforcement (§ 764 (2) ZPO) or the local court at the debtor's place of residence (§§ 828 (2), 12, 13 ZPO) is competent. In case the debtor does not have a residency within Germany, the local jurisdiction lies with every local court where assets of the debtor are located (§§ 828 (2), 23 ZPO). If these rules lead to more than one competent court, the debtor may choose freely with which of the competent courts he wishes to file his application (§ 35 ZPO). The functional competence lies exclusively with the judge.

Applications regarding the suspension or limitation of enforcement pursuant to Art. 23 EPOR shall be decided by the court by way of an order after hearing the creditor. These orders are not appealable (§ 707 (2) ZPO).

German courts may order all measures enlisted in Art. 23 Lit. a-c.