

Cross Border Debt Recovery- Made Simple.

The European Order for Payment Procedure

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DWFM Beckman advises fellow IPG member Ferner Hornung & Partner Rechtsanwälte GmbH as to the procedure of enforcing an Austrian Judgment in the UK High Court. This was the first European Enforcement Order for Payment claim in 2015.

Prior to Regulation (EC) no. 1896/2006 of the European Parliament and of the Council coming into force, cross-border enforcement claims were complex, costly, time consuming and therefore unsuitable for small to medium sized claims.

However the European Order for Payment Procedure speeds up cross-border uncontested claims, whilst minimising the legal costs incurred where it is primarily the acquisition of a writ of control that is sought.

How does the procedure work?

The procedure is largely based on forms that have been drawn up for the European Payment Order.

To start the procedure in any EU member state, Form A must be filled in, giving all the details of the parties and amount of the claim. The court will then issue the European Payment Order, Form E within 30 days.

The European Payment Order will then be served on the debtor by the EU court. Assuming the debtor does not pay the debt or contest it, the European Payment Order will become automatically enforceable and the EU Court will issue a Declaration of Enforceability, Form G.

Enforcing in England & Wales, where do we come in?

Enforcement takes place in accordance with the national rules and procedures of the Member State where the European Payment Order is being enforced.

To enforce in England & Wales, copies of the European Payment Order documents; Forms A; E; and, G, and if necessary translations, should be sent to us. These are filed at the High Court and the matter is assigned a case number. We will draft and prepare the writ of control documents, namely the draft writ of control and the request for issue of the writ, which are especially modified by us to incorporate the European Procedure. We then certify the rate for the purchase of Euros and convert the amount of the debt into sterling.

Once filed at the High Court, the writ of control is sealed and delivered to a High Court Enforcement Officer instructed to take control of the debtor's goods and sell the goods to raise a sufficient amount to satisfy the debt.

When advising IPG member, Ferner Hornung & Partner Rechtsanwälte GmbH, we were able to successfully negotiate with the debtor prior to the enforcement officer seizing the goods. We claimed directly from the debtor the full judgment debt, interest at 8%, and not only the fixed costs on issuing, but also, the legal costs in obtaining and registering the judgment order and the enforcement officer's fees.

In Summary

Despite being relatively uncommon in England & Wales, the enforcement procedure means that it is now worthwhile for members of the EU to quickly and cheaply pursue uncontested money claims in England & Wales, which might have otherwise been abandoned.

For advice on any aspect of the enforcement procedure in England & Wales, please contact Elena Chrysostomou at elena.chrysostomou@dwfmbeckman.com.