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EURO-AMERICAN LAWYERS GROUP

BELGIUM: EUROPEAN ENFORCEMENT ORDER FOR UNCONTESTED CLAIMS ENTERS INTO FORCE

A EURO-AMERICAN LAWYERS GROUP BRIEFING ARTICLE

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As of October 21, 2005 EC Regulation No 805/2004 of the European Parliament and of the Council of April 21, 2004 creating a European Enforcement Order for uncontested claims entered into force.

This implies that judgments and notary deeds relating to uncontested claims in civil and commercial matters - dating as from January 21, 2005 - may be certified as an European Enforcement Order.

Other judgments and notary deeds remain subject to Regulation No 2001/44 of December 22, 2000 providing for the “exequatur” procedure in order for the judgment or notary deed to be enforceable in another Member State.

With Regulation No 805/2004 the “exequatur” procedure is no longer needed for uncontested claims in civil and commercial matters, but the mere EU certification - to be requested at and delivered by (i) the Court’s secretariat for a judgment and (ii) the Notary for his notary deed -, is sufficient to make the decision recognised and enforced in all EU Member States, including the new Members of May 1, 2004, with the exception of Denmark.

The Court’s secretary or the Notary may only refuse a certification with prudence and motivation. If confronted with such a refusal, a petition may still be filed with the Court.. In case of urgency, the “exequatur” procedure may also be used.

Under no circumstances may the judgment or its certification as a European Enforcement Order be reviewed as to their substance in the Member State of Enforcement. But if only parts of the judgment meet the requirements of this Regulation, a partial European Enforcement Order certificate shall be issued for those parts.

No appeal lies against the issuing of a European Enforcement Order certificate.

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