



A Guide for Users to the **European Small Claims Procedure**

A short introduction to the main practical aspects
of the use of the procedure based on the Regulation

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About this Guide

The purpose of this Guide is to give a direct introduction to the European Small Claims Procedure, referred to throughout the Guide as the 'ESCP'. The Guide is designed to assist users of the ESCP in understanding what each stage of the procedure involves. In particular it should assist a party wishing to commence an ESCP case and also a party against whom a case has been commenced.

The Guide is relatively short and straightforward, for ease of access and intelligibility. It does not go into very great detail, deliberately, the intention being to keep the description of the various aspects of the procedure as short and simple as possible.

For a more detailed description of the ESCP, and for additional information which may enable users of the ESCP to understand the procedure in more depth, reference can be made to the companion Practice Guide, reference to whose contents can be found in most of the paragraphs of the Guide for Users, for example 'PG 1.1'.

For ease of reference, this Guide is divided into parts, as follows:

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Introduction: Contemplating legal action to recover a cross-border claim in the EU

Once a cross-border claim arises, and the claimant is unable to obtain payment or performance of the obligation on which the claim is based or agree an acceptable settlement of the claim, it may be necessary to take legal action. If so, there are various different procedures which may apply, depending on the amount and nature of the claim and whether or not it is defended.

Therefore, before commencing legal action to recover a claim, an individual or business in the EU will need to decide which procedure to use. This decision will depend to a large extent on the circumstances of each individual case, since the available procedures, while they overlap with each other to an extent, are in fact mainly designed to deal with different situations.

When is it useful to use the ESCP?

The ESCP is available for claims of up to €5 000 in value including claims other than for payment of money and can be used where a claim is defended or undefended. The ESCP is intended to be a relatively speedy and less costly procedure. It is particularly useful for claimants who do not wish to have the assistance of, or be represented by, a lawyer given that legal representation is not mandatory.

The ESCP can be used for most cross-border claims of a civil and commercial nature including those arising from contracts, claims for damages for loss or injury and for delivery of goods. Some types of case are however excluded from the ESCP; these include family law cases and maintenance, employment and social security matters, and cases relating to bankruptcy.

The ESCP is basically a written procedure conducted through standard forms. An oral hearing takes place only in those cases where it is not possible to give judgment on the basis of the written evidence or if one of the parties requests an oral hearing and the court takes the view that this is necessary to decide the case or in the interests of fairness. In addition, claimants using the ESCP can expect to receive assistance in completing the Claim Form. Courts are to give guidance on procedural matters.

Other procedures for recovering cross-border claims

In resolving a problem in a consumer case, use can be made of alternative dispute resolution mechanisms. The **ADR Directive** provides rules for out of court dispute resolution in the Member States that ensure

the quality of dispute resolution bodies. The **ODR platform** can be used to send complaints arising from online sales and services between consumers and traders to an approved dispute resolution body.

If a court procedure is considered, the ESCP is available for a claim the value of which does not exceed €5 000 and that is not excluded from the scope. Before deciding whether to use the ESCP, it is advisable to consider whether another procedure might be either suitable or mandatory for the type of claim concerned. The following options are available in the EU for the recovery of cross-border claims:

- For all **cross-border Maintenance** claims, the Maintenance Regulation applies. More information is available on the e-Justice Portal section on Maintenance obligations, see: https://e-justice.europa.eu/content_maintenance_obligations-355-en.do
- For cross-border claims concerning **Wills and Succession**, the Succession Regulation applies. More information is available on the e-Justice Portal section on Succession, see: https://e-justice.europa.eu/content_succession-538-en.do
- For uncontested claims where a court order or other confirmation of entitlement to a sum of money has been granted, the **European Enforcement Order ('EEO')** is available. For more information about the EEO, reference can be made to the Practice Guide for the Application of the Regulation on the European Enforcement

Order which can be found online at: http://ec.europa.eu/civiljustice/publications/docs/guide_european_enforcement_order_en.pdf

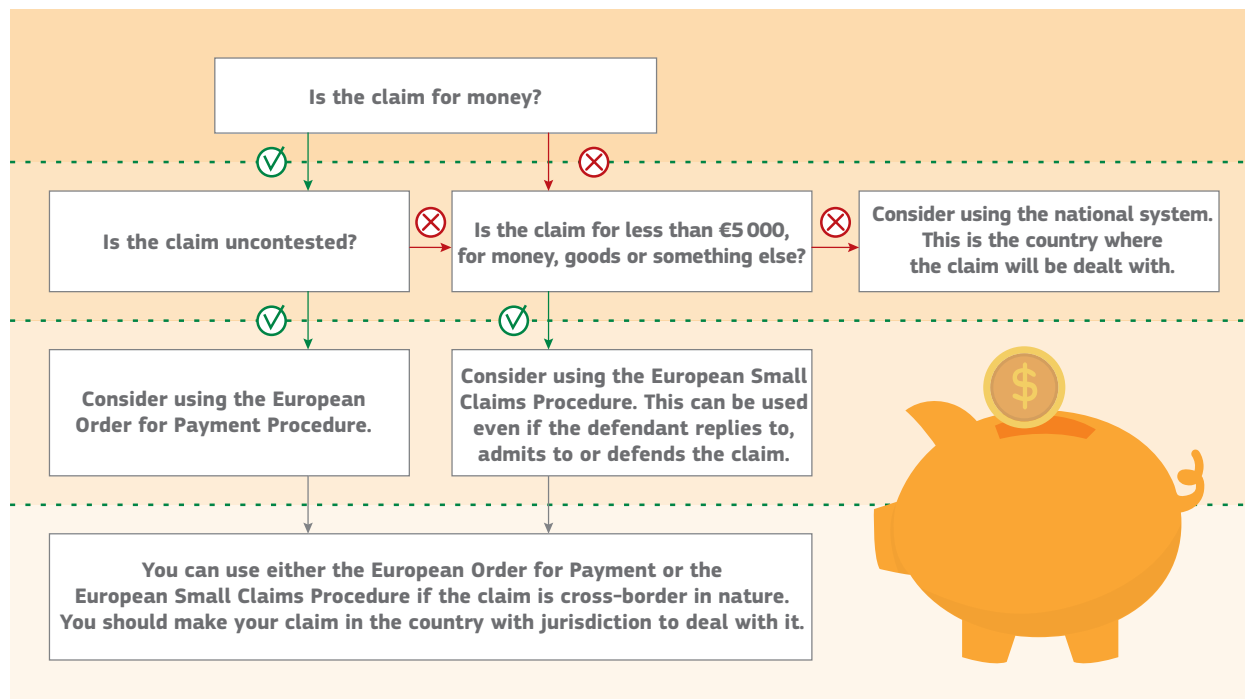
- For monetary claims other than maintenance to which the claimant thinks that **there is no defence or that they will not be defended**, the procedure for the **European Order for Payment ('EOP')** is suitable. This option is particularly attractive for claimants seeking to recover monetary debts from multiple debtors since it is designed to be very fast in dealing with claims to which there is no defence. It is also designed specifically for electronic application, where available. For more information about the EOP, reference can be made to the Practice Guide for the Application of the Regulation on the European Order for Payment which can be found online at: <http://ec.europa.eu/justice/civil/document/>
- For other types of civil and commercial claims, including those of more than €5 000 in value, national procedures can be available, although in some Member States there are special procedures for particular types of claim. There are EU rules to determine which court can hear cases between the Member States. To have a national judgment or order enforced in another Member State, the procedure in the Brussels I (recast) Regulation must be followed. Information on this Regulation is available on the e-Justice Portal, under the section on Brussels I (recast), see: https://e-justice.europa.eu/content_brussels_i_regulation_recast-350-en.do. The website of the European e-Justice Portal contains copious material on cross-border litigation in the EU on civil and commercial matters¹.

⁽¹⁾ See https://e-justice.europa.eu/content_going_to_court-32-en.do

Choosing which procedure to use

A claimant therefore has a choice of court procedures; how should the choice be made?

The following flow chart gives an indication as to the suitability of the different procedures for the different types of case.



PART ONE

*The purpose, uses
and scope of the ESCP*



1.1 What is the European Small Claims Procedure? – PG 1.1

The ESCP is a type of court procedure for pursuing civil claims in the EU, it:

- is only available for cross-border cases: see 1.2;
- is available for claims up to the value of €5 000: see 1.4;
- can be used for monetary and non-monetary claims;
- can deal with both defended as well as undefended claims;
- need not involve representation by a lawyer which is not necessary but is also not prohibited;
- is designed to be relatively speedy, easy to use and less costly than other procedures;
- does not replace similar national procedures and is thus optional which means that, if it is available for the claim, there is also normally a national procedure which can be used to pursue the claim, the choice of which one to use being for the claimant to make.

1.2 What is a cross-border case? – PG 2.2.2

A case in which at least one of the parties is not based in the same Member State as the court dealing with the claim².

The time at which it is determined if a case is cross-border is the date when the claim is received by the competent court.

1.3 What types of claim can be made using the ESCP? – PG 2.1.4

The ESCP can be used for most types of civil or commercial claim such as for:

- payment of money;
- damages arising from an accident;
- delivery of goods or other moveable property;
- requiring someone to perform a contract;
- stopping or seeking to prevent an illegal act.

⁽²⁾ It should be borne in mind that Denmark is not bound by the Regulation and so a claim against a party in Denmark would have to be made using a national procedure there.

1.4 How do I work out if the claim is within the value of €5 000? – PG 2.1.1

If the claim is for a payment of a monetary sum, the value will be that sum.

If the claim is not for payment of a monetary sum, it is necessary to put a value on such a non-monetary claim – PG 2.1.2.

If there is also a possible monetary claim to be made in the event that the non-monetary claim is not met then this should be stated separately.

For the purpose of calculating the value of the claim, all interest, expenses and disbursements are excluded.

1.5 Claims in euro or another currency

The financial value of the claim will have to be stated in the currency of the court. This can be done on the Claim Form, Form A, which allows for this in section 7. Where the currency of the court is not the currency in which the claimant has formulated the claim, the value of the claim will have to be stated in the appropriate currency by converting the amount claimed into the currency used in the court. The claim should then be stated in that currency as shown in Part 7 of the Claim Form.

In addition, since not all Member States use the euro, in order to determine whether a claim is within the financial limit of €5 000, the claimant will have to convert the claim into the euro value as at the date on which the claim goes to the court. The euro value will not have to be stated on the Claim Form unless the currency used in the court to which the claim is sent is the euro.

Member States may have specific procedures for currency conversion, so where conversion is necessary it is advisable to contact the court in advance to find out what arrangements apply. Courts will also be able to advise whether they are prepared to accept claims stated in a currency other than that of the Member State concerned.

1.6 Are there any civil claims which cannot be made using the ESCP? – PG 2.1.3

Some civil claims are excluded from the ESCP as described in Article 2 of the ESCP Regulation, for example maintenance claims and claims arising out of employment contracts. Claims related to revenue, customs or administrative matters are also excluded.

Some other claims are not considered to be civil and commercial claims; for more information as to what such a claim is or is not, see PG 2.1.5.

1.7 Is it necessary to instruct a lawyer to use the ESCP? – PG 9.1.1

It is not necessary to instruct a lawyer, but it is also not prohibited to do so.

If a lawyer is instructed by a party in an ESCP case, this may have an effect on the award of expenses by the court: see PG 9.1.2 and Part Two.

PART TWO

*Costs
and expenses?*



2.1 What does it cost to use the ESCP? – PG 3.4

In most EU Member States, it will be necessary to pay a fee to the court for lodging the application commencing the ESCP. The arrangements for payment of this fee have to be set out by the claimant in box 6 of the Claim Form, Form A.

The amount concerned varies – information about the costs or how to calculate the costs is available on the European e-Justice Portal in the section [Court fees concerning Small Claims procedure](#).

In addition to this, there may be costs arising if a lawyer is instructed and also for certain witnesses such as experts.

2.2 Awarding expenses to the successful party

The court will usually award expenses at the end of the case to the person who is the successful party. The expenses awarded must be proportionate to the claim and the court should not award any disproportionate expenses to cover lawyers' fees³.

2.3 Expenses implications of the ESCP

Although the ESCP is intended to be a relatively low cost procedure, it is nonetheless to be expected that there will be expense implications from using the procedure even if a party is not instructing a lawyer. Where a lawyer is instructed, the party doing so must bear in mind the possibility that, even if successful, that party may not be awarded the costs of legal advice for the case.

2.4 Expenses where a hearing is held

Apart from payment of the court fee mentioned in paragraph 2.1, parties should bear in mind that there are expense implications if they request a hearing and the court agrees to this. In such an event, parties can expect to have to pay the costs of any expert and other witnesses, of translation of documents and of any special procedure used for the hearing, such as video-conferencing. The court must bear in mind the extra costs involved if the case requires oral testimony from the parties and any witnesses, and will take expert evidence or oral testimony only if it is not possible to give the judgment on the basis of other evidence.

⁽³⁾ See Article 16.

Part Two *Costs and expenses?*

In general, the costs involved in a hearing should be kept to a minimum, as the court should use the simplest and least burdensome method of taking evidence⁴.

2.5 Who pays the costs of the ESCP? – PG 6.4

In principle, the party against whom judgment is given will pay the costs of the proceedings to the other party. As already noted, the court will appraise the costs on the basis that costs will not be awarded if they are disproportionate to the value of the claim or were incurred unnecessarily and that includes the costs incurred by the successful party if that party had instructed a lawyer.



⁽⁴⁾ See Article 9.1.

2.6 Costs of enforcement

Claimants would be well advised to consider, before commencing a claim, all factors indicating whether it is worthwhile to proceed with the claim. These factors will include the costs of the procedure and also the basic questions as to whether the defendant has resources to meet the claim or out of which it could be met. Claimants should also be aware that, in addition to the cost of the ESCP procedure, there will be costs involved if they wish to enforce the judgment, particularly the cost involved relative to the sum or sums awarded.

PART THREE

*Taking a small
claim to court*



3.1 How to start a claim – PG 3

Before using the ESCP, the first thing to do is to work out the basis of the claim and collect any written material needed to support it.

Once this material has been collected, in order to start the procedure it is necessary to obtain a copy of the Claim Form, since the ESCP is essentially a paper-based procedure.

3.2 Where is it possible to obtain a Claim Form? – PG 3.2

The Claim Form, Form A, should be available in all the EU Member States in each court or tribunal where the ESCP can be commenced, including on national court websites.

Depending on arrangements in the Member States, the form may also be available in other public locations such as public libraries and advice centres and from consumers' organisations.

In addition, electronic versions of the form, as well as the other ESCP forms, are available in all the official languages of the EU; these are to be found in the Dynamic Forms section of the e-Justice Portal. Here is a link to the English language version.

https://e-justice.europa.eu/content_small_claims_forms-177-en.do

3.3 How to use the Claim Form

The form contains extensive instructions regarding its completion.

3.4 Is assistance available for completion of the form? – PG 4.1.3

EU Member States must ensure that claimants, as well as other parties, are given practical assistance in completing the ESCP forms.

3.4.1 Assistance by court staff

Assistance provided by court staff in completion of the form cannot extend to providing legal advice; however advice as regards the substance of the claim may be available from advice agencies.

3.4.2 *Other sources of assistance*

The assistance for completion of the Claim Form is made available in different ways depending on the internal arrangements in each Member State. In many Member States, there are networks of consumer, legal and other advice centres where claimants, and defendants for that matter, can seek advice on the forms and procedure in the ESCP. In addition, the European Consumer Centres network ('ECC'), where available, can provide consumer advice to claimants in connection with claims under the ESCP. Claimants and defendants are advised to check what is available in their own locality, and they can find assistance in this respect from websites such as that of the European Commission⁵ and the e-Justice Portal⁶.

⁽⁵⁾ See http://ec.europa.eu/consumers/ecc/index_en.htm

⁽⁶⁾ See paragraph 2.2.

3.5 Asking for an oral hearing – PG 5.3

In principle, the ESCP is a written procedure, so the information, which the court will consider, will be in writing, and no presence in the court is needed.

The court decides the case on the basis of the information provided by the claimant and, if the case is defended, the defendant.

However, the court itself may hold an oral hearing if it considers that it is not possible to give the judgment on the basis of the written evidence. The claimant and the defendant also have the right to request a hearing. If such a request is made, the court must hold a hearing unless it considers that it is not necessary for the fair conduct of the proceedings.

The claimant may ask for an oral hearing by completing the relevant paragraph in the Claim Form, which is paragraph 8.3, and giving reasons for the request. The defendant can request an oral hearing by answering question 3 of Part II and giving reasons.

3.6 To which court should the application be sent? – PG 3.1

The court which can take the case can be identified usually as a court where either the defendant or the claimant is based.

It is necessary first to identify which EU Member State's or Member States' courts are competent under the relevant EU regulation (the Brussels I (recast) Regulation). That means looking at the jurisdiction rules as they apply to the particular case and then finding out which court can take the case in the relevant country.

It is of particular importance for individual consumers to be aware of the possibility of making the application in the court in the country where they live. For this purpose, a consumer is a person who is not acting for the purposes of a trade or business in connection with the subject matter of the dispute in respect of which the claim is being made (see in particular as regards jurisdiction rules affecting consumers PG 3.2.1).

More information about the jurisdiction rules can be found on the e-Justice Portal.

3.7 Sending the Claim Form to the court – PG 3.6

The Claim Form may be sent to the court by post or by any other means of communication acceptable to the court concerned or it may be able to be delivered by hand to the court.

Information about the means of transmission should be available on the e-Justice Portal and may also be available on local websites in the country in question.

3.8 What documents must be sent with the Claim Form? – PG 3.5

As the ESCP is a written procedure, all documents necessary to support the application must be sent with the Claim Form. These could include orders, receipts, invoices, reports, correspondence between the parties and also photographic and other illustrative material. What is necessary will depend on the facts of the case. The aim should be to ensure that the court will have before it all the information it needs on which to base a decision.

3.9 In what language should Form A and the documents be? – PG 3.7

The Claim Form and the supporting documents should be in the language of the court or another language which the court is prepared to accept. This information should also be available on the relevant websites. It may not be necessary to translate the supporting documents. Sometimes it can be helpful to ask the court directly about this.

3.10 Is there anything else which needs to be sent with the claim? – PG 3.3

Where the court requires payment of a fee for the lodging of the claim, it may be necessary to provide the court with information about how the fee will be paid. There is space on the Claim Form for this purpose (and see paragraph 2.1 above). In some Member States, the fee may need to be received before the court will start the procedure.

It may help the court to know what other evidence the claimant might wish to bring before it in the event that the case is defended, including the names of witnesses and any medical, technical or other experts.

3.11 What happens when the court receives the Claim Form? – PG 4.1.1 and 4.1.2

The court first checks the form and accompanying documents when they arrive to make sure that the form has been completed correctly, then to see if the claim falls within the scope of the ESCP and finally to see if the claim is well founded or not.

The court will tell the claimant if the claim is outside the scope of the ESCP or if it takes the view that the claim is not well founded. It can also ask the claimant to complete or rectify the Claim Form.

3.12 Dealing with a request to rectify the Claim Form – PG 4.1.3

The court may send the claimant a form, Form B, in which the claimant is asked to complete or rectify the Claim Form. This might involve changing the language in which the claim is written, adding additional information which the court requires before it can decide if the claim is within the scope of the ESCP or is well founded or simply correcting any obvious mistakes.

The court specifies the period within which the claimant must respond to the request made in Form B. If the claimant fails to complete or rectify the Claim Form within the time specified by the court, the application shall be dismissed. In exceptional circumstances, the time limit may be extended by the court if it considers that this is necessary to safeguard the parties' rights.

3.13 What happens if the court finds that the claim is outside the scope of the ESCP? – PG 4.1.2

If the court finds that the claim is outside the scope of the ESCP, it does not dismiss it; the claimant has the opportunity to withdraw the claim and if this does not happen the court proceeds with the claim under the appropriate national procedure.

3.14 What happens if the court dismisses the claim? – PG 4.1.1

Dismissal at this stage is a procedural decision and does not decide the substance of the claim. This means that the claimant can re-submit the claim either under the ESCP (having taken account of the reason why the original claim was dismissed) or under a suitable national procedure.

3.15 Who notifies the defendant about the claim? – PG 4.2

The court completes Part I of the Answer Form, Form C, and sends this to the defendant with copies of the supporting documents, where appropriate. The court does this within 14 days of receiving the properly completed or rectified Claim Form.

PART FOUR
Responding to a claim



4.1 Options for the defendant on service of the claim – PG 4

The defendant has the choice of either responding to the claim once it has been served or doing nothing.

4.2 Consequences of not responding to the claim

If the defendant does not respond to the claim within the period of 30 days of service, or any extension of that period allowed by the court (see paragraph 3.3), the court will grant judgment on the claim.

4.3 Responding to the claim – PG 4.3

The defendant may respond to the claim using Part II of Form C or, if not, in any other appropriate way. The response should be accompanied by any relevant documents which support the argument of the defendant. The response should be submitted within the period of 30 days of service. The period of 30 days may be extended by the court in exceptional circumstances, if necessary, to safeguard the rights of the parties. An application would have to be made to the court for such an extension under the appropriate procedures of the court concerned.

4.4 Options for the response to the claim – PG 4.3

Various options are open to the defendant to respond to the claim. These include:

- making a payment of the amount claimed to settle the case;
- admitting it in substance and either,
 - agreeing that the sum claimed is payable and making payment, and/or
 - offering to make payment to settle it in whole either by paying a deferred lump sum or by instalment payments, or
- disputing the amount claimed;
- disputing it on the substance,
 - in whole or in part;
 - and also as to the amount claimed;
 - and making a counterclaim using Claim Form A;
- challenging the jurisdiction of the court without disputing the substance;
- challenging it on procedural grounds such as that,
 - the subject matter is outside the scope of the ESCP, or
 - the value of the claim is higher than the ESCP financial limit, or
 - it is not a cross-border claim⁷.

⁽⁷⁾ See paragraph 1.2.

4.5 Requesting an oral hearing. See also paragraph 3.5

The respondent can also request an oral hearing using paragraph 3 of Part II of Form C and indicate, using paragraph 2 of Part II of Form C, which witnesses and other evidence are to be submitted and attach any relevant supporting documents also in respect of any counterclaim made.

NB: The same rules as regards language apply to the response and counterclaim as to the claim (see paragraph 3.9).

4.6 What happens if the challenge to the jurisdiction is successful? – PG 3.2.1 and 3.2.2

If the challenge to the jurisdiction is successful, such as where the claim is against a consumer and the consumer jurisdiction rules have not been followed, the claim cannot continue and the claimant must withdraw it and, if desired, make another claim in a court which is competent.

4.7 A claim outside the scope of the ESCP: what happens? – PG 2.1 and 4.1.2

If the court finds that the claim is outside the scope of the ESCP, because of either the value of the claim or the subject matter, it must inform the parties within 30 days of the receipt of the defendant's response. In such a situation, the claim cannot proceed under the ESCP. The claimant can withdraw the claim and consider raising a fresh claim under the appropriate national procedure or the court can proceed with the claim under the relevant national procedure law.

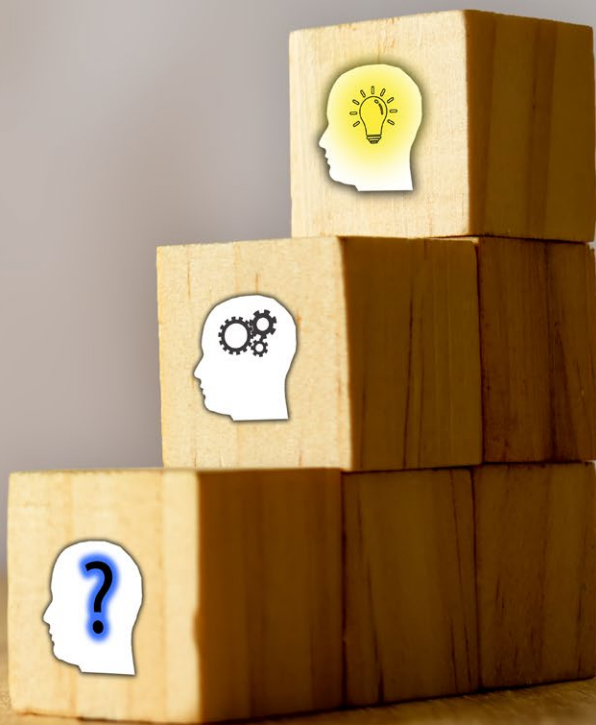
4.8 What happens if the counterclaim is above the financial limit? – PG 4.4

If the counterclaim is of a value above the financial limit of €5 000, both the claim and counterclaim fall outside the scope of, and cannot proceed under, the ESCP. The consequences of this are as set out in paragraph 4.6. For this purpose, the value of the counterclaim and the claim are assessed separately without aggregating them.

4.9 What can the claimant do when the defendant submits a response? – PG 4.5

A copy of the defendant's response and of any supporting documents should be sent to the claimant by the court within 14 days of receipt. This also goes for any counterclaim stated by the defendant. The claimant has 30 days to respond to the counterclaim. This can be done using the Answer Form or in another suitable manner. As with the defendant's response to the claim, the period of 30 days may be extended by the court (see paragraph 4.3).

PART FIVE
*Proceeding
to judgment*



5.1 What is the role of the court in deciding disputed issues? – PG 5.1

The ESCP is, in principle, a written procedure and it is for the court to take the initiative as regards decisions as to what evidence and other information is needed to decide any disputed matters and as to how that evidence shall be received by the court.

5.2 What options are open to the court? – PG 5

The following options are open to the court:

- request further details of the claim and/or counterclaim;
- obtain evidence;
- hold an oral hearing.

5.3 What if the court requests further information from the parties? – PG 4.1 and 5.2

In addition to being able to request further information from the claimant when the Claim Form is lodged (see paragraph 3.12) or from a defendant who lodges a counterclaim, the court has the power to ask for the parties to provide further details regarding the claim and/or counterclaim within a time limit set by the court. That time limit is to be not more than 30 days from the receipt by the court of the defendant's response to the claim or, as the case may be, the claimant's response to the counterclaim.

The time limit may, in exceptional circumstances, be extended but only if necessary to safeguard the rights of the parties. For this, an application would have to be made to the court for such an extension under the appropriate procedures of the court concerned.

5.4 What happens if the parties do not comply with the court's request? – PG 5.2

When the court sets a time limit for receipt of the additional information requested, it must inform the parties of the consequences if they fail to provide the information requested by the court within the time limit set, or any extension granted. Those could include the dismissal of the claim or counterclaim or a finding against the party in default.

5.5 What if the court decides to hold an oral hearing? – PG 5.3

The court can decide to hold an oral hearing if it takes the view that it is not possible to give the judgment on the basis of the written evidence or if a party so requests and this request is not refused: see paragraph 3.5. If the court decides to hold an oral hearing, it must summon the parties and the hearing must take place within 30 days of the summons. The time limit of 30 days may, in exceptional circumstances, be extended but only if necessary to safeguard the rights of the parties.

5.6 What about evidence at the oral hearing? – PG 5.1, 5.4 and 5.5

If it does decide to hold an oral hearing, the court decides what evidence it needs to decide the case and how that evidence will be obtained. The court will then tell the parties what evidence it requires including oral evidence and how it should be delivered. The evidence can be obtained in the form of written statements of the parties and any witnesses, including experts.

The court can order that the evidence be obtained using ICT methods such as video conferencing or other means of communication technology if these are available. Though it is ultimately the court's decision as to what evidence is to be heard and in what manner it should be obtained, it is always open to the parties to make suggestions on the evidence including as to the use of such ICT applications. As noted in paragraph 2.4, the court has to use the least expensive and burdensome method of obtaining evidence and has to bear in mind the costs of so doing.

5.7 Must both parties attend court for an oral hearing?

Bearing in mind the costs involved if it requires oral testimony from the parties, the court may decide either not to require one or both of

them to attend or that evidence from one or both may be given in the form of a written statement which can be lodged in court.

5.8 Is it necessary to have a lawyer for the oral hearing?

As with the ESCP in general it is not necessary to instruct a lawyer for the hearing. If a party does so, that is permissible, but the cost of doing so may not be wholly recoverable from the other party in the event of success: see paragraph 2.5.

5.9 How should a party who is not represented prepare for the oral hearing?

As with all court hearings, a party to proceedings (either claimant or defendant) should think through the arguments in the case beforehand and make sure they have all necessary papers, documents and witnesses available for the hearing.

5.10 How does the court conduct the hearing? – PG 5.5

The role of the court is to determine the procedure for the hearing in all respects. This means not only that the court decides what evidence will be heard and how it will be obtained but also that it decides all procedural questions and gives information to the parties about these.

The oral hearing shall in principle be held by making use of distance communication technology, such as videoconference or teleconference, where this technology is available to the court. It will use available technological means unless the use of such technology, considering the particular circumstances of the case, is not appropriate for the fair conduct of the proceedings.

The parties are not required to make any legal assessment of the claim and, where there is one, counterclaim; that is done by the court. The court also seeks, at all times, to reach a settlement of the case between the parties.

5.11 When does the court give its judgment? – PG 6.1

The court will give a judgment at one of the following points:

- where a party has not performed any action required in the course of the ESCP within the relevant time limit, and so is in default, the court can issue a judgment against that party, upon expiry of the time limit in question: see further PG 6.1.1 and 6.1.2;
- within 30 days of receipt of a response to the claim or, as the case may be a counterclaim, where the court decides not to hold an oral hearing and requires no further information from any party;

- within 30 days of receipt of all the information required by the court where it required further information from a party and that party provided the information within the relevant time limit;
- within 30 days of having obtained evidence without holding an oral hearing;
- within 30 days of the holding of the oral hearing.

If the court cannot issue the judgment within the period of 30 days, it must take steps to do so as soon as possible thereafter.

5.12 How do the parties find out the judgment? – PG 6.3

The court must serve the judgment to the parties. Normally the judgment should be served immediately once it is issued and preferably within the time limits mentioned in paragraph 5.10. If the judgment is not served to the parties within a few days after the expiry of these time limits, it is suggested that the parties should enquire with the court as to whether the judgment has been issued and if so when it was or is to be served.

PART SIX
After the judgment



6.1 What can the parties do once the judgment is issued? – PG 7 and 8

The party in whose favour the judgment has been granted can take steps to enforce the judgment. To that end, the judgment can be enforced in another EU Member State:

- as if it had been given in that State;
- with no special procedure being required;
- with no need for a declaration of enforceability;
- irrespective of whether there is the possibility of an appeal;
- with no need for a postal address or an authorised representative in that State, and;
- without any security being required.

6.2 What is required for enforcement of the judgment? – PG 8.2

The party seeking enforcement has to produce a copy of the judgment and a certificate issued by the court. Either party can request that the court issue a certificate concerning the judgment, and the court issues it using Form D.

6.3 In what language should the certificate be issued? – PG 8.1.1 and 8.3.2

The party seeking enforcement will need to let the court know in which Member State enforcement is contemplated and, where there is more than one official language in that State, the specific place in that State. The certificate has to be in, or accompanied by a translation into, the appropriate official language of the State where enforcement is being sought or in another language which that State has indicated is acceptable to it.

Upon request, the court shall provide the party with the certificate in any other official language of the institutions of the Union by making use of the multilingual dynamic standard form available on the European e-Justice Portal. The court is not obliged to provide a translation and/or transliteration of the text entered in the free-text fields of that certificate; it is a duty of the party seeking the enforcement to ensure such translation or transliteration.

6.4 What steps should the party who wishes to enforce the judgment take before proceeding to formal enforcement measures?

The judgment creditor, that is the party in whose favour the judgment has been granted, would be well advised to consider all factors indicating whether it is worthwhile to enforce the judgment. It is sensible to first write formally to the judgment debtor requesting payment or performance under the judgment with a warning that if this is not forthcoming the creditor will proceed to formal enforcement with the inevitable consequences for the debtor that there will be additional costs to pay.

6.5 Can the judgment creditor find out about methods of enforcement? – PG 8.5.2

The creditor can access information about the enforcement systems in the EU Member States on the European e-Justice Portal. This information is about national procedures for enforcement and contains the names and addresses of enforcement agents in the different States.

6.6 Is it possible to appeal against the judgment? – PG 7.2

The law of each EU Member State decides as to whether it is possible to appeal against the judgment. Information about the possibility of appeal is also available on the e-Justice Portal.

6.7 Is there any possibility of the judgment being reviewed? – PG 7.1

The defendant can apply for a review of the judgment under the ESCP at the court with jurisdiction in the EU Member State where the judgment was given where:

- the defendant was not served with the Claim Form or was not summoned to the oral hearing, in sufficient time and in such a way as to enable him to arrange for his defence; or
- the defendant was prevented from objecting to the claim by circumstances outside the control of the defendant or other extraordinary circumstances without any fault on his part.

A review is not possible if the defendant failed to challenge the judgment when it was possible for him to do so, in particular by lodging an appeal.

The request for a review should be made within 30 days from the day the defendant was acquainted with the contents of the judgment and was able to react.

NB: It is not possible to seek a review of the judgment in any State where enforcement of the judgment is sought.

6.8 What is the effect of the review? – PG 7.1.2

If the review is rejected, the judgment stands and remains enforceable. If the review is found to be justified, the judgment is null and void and the claimant will have to make a new claim.

6.9 Can enforcement be refused? – PG 8.4

The judgment debtor can apply to the competent court in the Member State of enforcement for enforcement to be refused on the ground that the judgment is irreconcilable with an earlier judgment given in any Member State or in a State outside the EU.

6.10 Can enforcement be limited or delayed? – PG 8.4.3

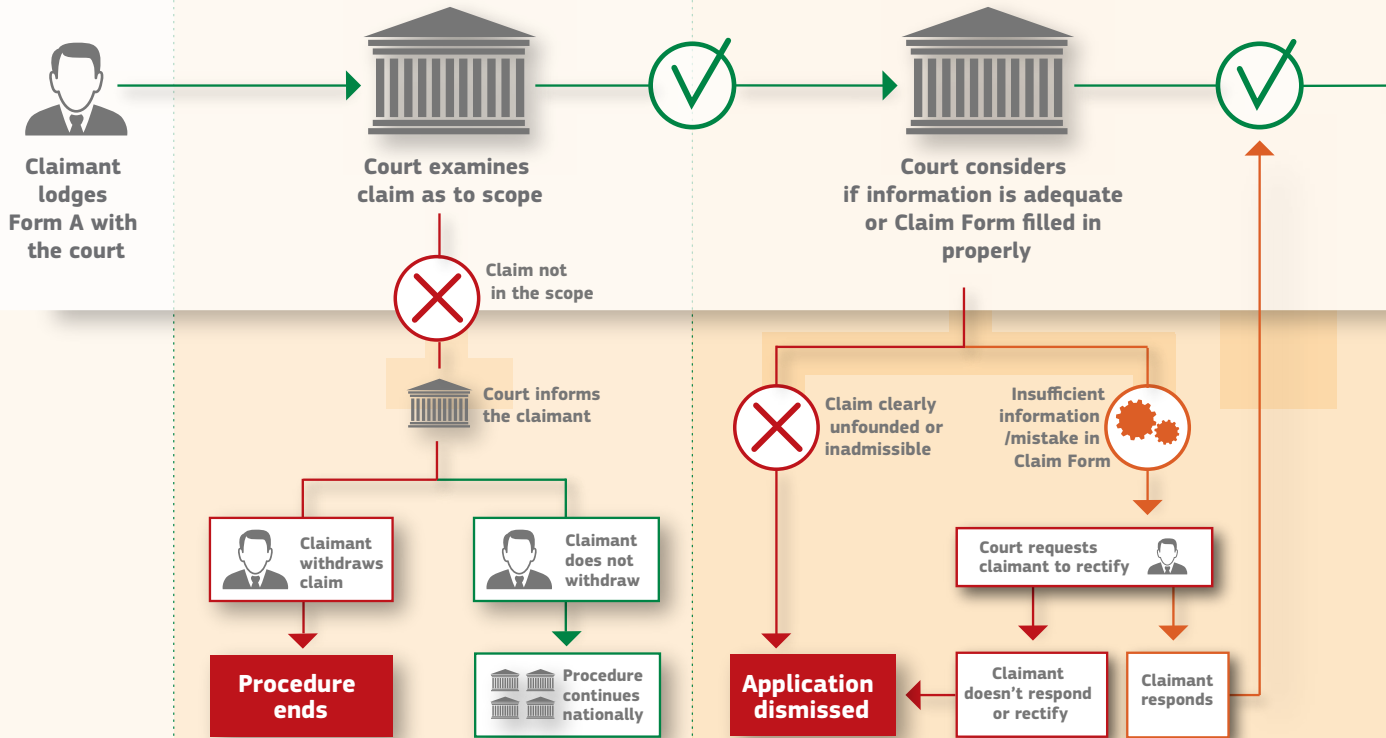
The party against whom enforcement is sought can apply to the court or competent authority in the Member State where enforcement is being sought to limit or delay enforcement or to make enforcement subject to security where:

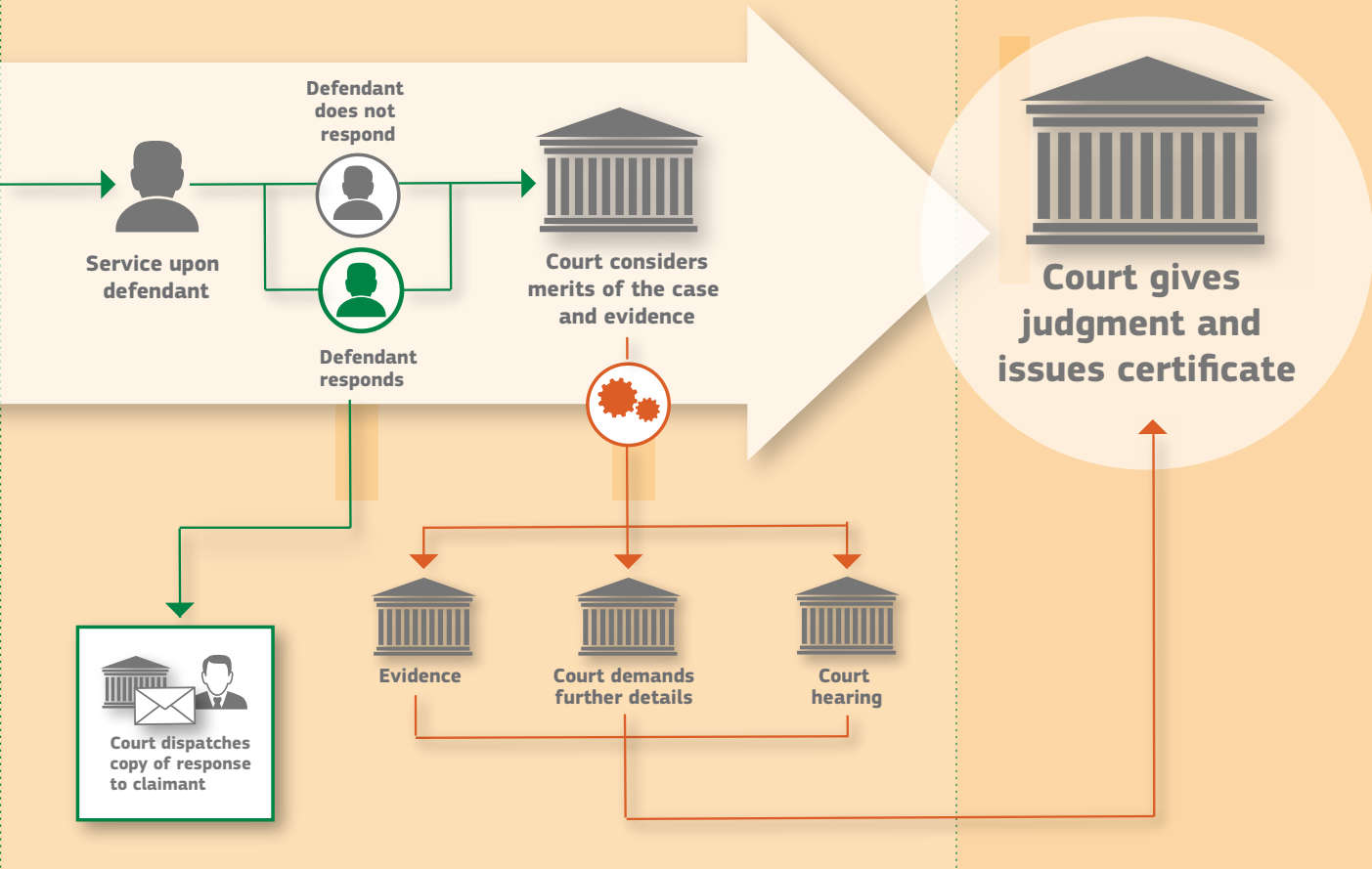
- a party has challenged a judgment given under the ESCP, or;
- it is still possible to challenge a judgment, or;
- a party has made an application for a review of the judgment.

Flow Chart for the use of the procedure

The following Flow Chart is inserted to illustrate the basic steps in a claim made under the ESCP. It is not intended to give a full picture as regards all possible elements of the procedure or to illustrate aspects which are governed, in particular, by the national procedure law of the Member States.

Small claims procedure





Reference material and Links

The European e-Justice Portal is a single point of entry to all relevant information about the ESCP; responsibility for providing the information about the ESCP is shared between Member States and the European Commission.

A) Forms to be used in the European Small Claims Procedure

https://e-justice.europa.eu/content_small_claims_forms-177-en.do

B) National information on the use of the procedure, including the competent courts and other information in accordance with Article 25

https://e-justice.europa.eu/content_small_claims-354-en.do

Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure, as amended by Regulation (EU) 2015/2421 of the European Parliament and of the Council of 16 December 2015 amending Regulation (EC) No 861/2007 establishing a European Small Claims Procedure and Regulation (EC) No 1896/2006 creating a European Order for Payment procedure.

PRINT	ISBN 978-92-76-08286-6	doi:10.2838/43758	DS-01-19-470-EN-C
PDF	ISBN 978-92-76-03908-2	doi:10.2838/559502	DS-01-19-470-EN-N

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