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European enforcement order

Belgium



Belgium

FINDING COMPETENT COURTS/AUTHORITIES

The search tool below will help you to identify court(s)/authority(ies) competent for a specific European legal instrument. Please note that although every effort has been made to ascertain the accuracy of the results, there may be some exceptional cases concerning the determination of competence that are not necessarily covered.

1. Procedures for rectification and withdrawal (Art. 10(2))

For the purposes of the rectification or withdrawal procedure referred to in Article 10(2) of the Regulation [Regulation (EC) No 805/2004], an application must be made to the chief officer of the judicial body that issued the European Enforcement Order certificate. If the certificate relates to an authentic instrument, this application must be made to the notary who issued the certificate. If the chief officer or the notary decides to rectify or withdraw the certificate, the certificate becomes ineffective. As soon as the material error has been remedied (in the case of rectification) or as soon as the chief officer or the notary concludes that all the requirements of the Regulation have been met (in the case of withdrawal), a new certificate will be issued to replace the previous European Enforcement Order certificate.

2. Procedures for review (Art.19 (1))

Depending on the specific circumstances of the case, under Belgian law there are several courses of action that may be open to a party wishing to secure a review of a decision:

- First, Article 1051 of the Judicial Code (*Code judiciaire/Gerechtelijk Wetboek*) stipulates that an appeal may be lodged against a judgment within one month of service of the judgment or, in some cases, within one month of notice of the judgment given under the second and third paragraphs of Article 792 of the Code. This applies whether or not both parties appeared in the proceedings.
- Second, Article 1048 of the Code stipulates that where a judgment is given in default of appearance of one of the parties, an objection may be entered, likewise within one month of service of the judgment or, in some cases, within one month of notice of the judgment given under the second and third paragraphs of Article 792 of the Code.
- Where neither of those remedies is any longer available against a judgment of a civil court (or of a criminal court ruling on the civil aspects of a case before it), a party may in certain circumstances be able to make an application seeking an extraordinary review under Article 1133 of the Code, within six months of learning of the judgment, with a view to having the judgment revoked.

The time-limits set out above for an appeal, objection or application for extraordinary review do not affect:

- any time-limits laid down in mandatory provisions in supranational and international law;
- the provision in Article 50 of the Judicial Code that allows a time-limit after which an entitlement lapses to be

extended under certain conditions laid down by law;

- the possibility of applying the general principle of law, repeatedly confirmed by the Court of Cassation [*Cour de Cassation*], according to which the time allowed for the performance of an act is extended in favour of a party who has been prevented from performing the act by force majeure.

3. Accepted languages (Article 20(2)(c))

Under Article 20(2)(c) of the Regulation [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 (European Judicial Atlas in Civil Matters).

4. Authorities designated for the purpose of certifying authentic instruments (Art. 25)

In Belgium, the designated authority for the purposes of Article 25 of the Regulation [Regulation (EC) No 805/2004] is the notary who drew up the authentic instrument which is the subject of the request for the issue of a European Enforcement Order certificate.

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