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European enforcement order

Netherlands

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FINDING COMPETENT COURTS/AUTHORITIES

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

1.1. Rectification procedure

An application for rectification may be made to the court that endorsed the order as an EEO, using the form at Annex VI to the Regulation. The procedure is governed by section 4 of the Implementation Act; it is a simplified petition procedure. That means that sections 261 *et seq.* of the Code of Civil Procedure will apply in addition to the Implementation Act. Sections 358 *et seq.* and 426 *et seq.* of that Code apply as regards appeals and cassation respectively.

Section 4 of the European Enforcement Order Implementation Act

1. An application for rectification of a European Enforcement Order certificate in accordance with Article 10(1)(a) of the Regulation shall be made on the form provided for by Article 10(3) of the Regulation to the court that endorsed the order as a European Enforcement Order. Section 2(2) and (3) shall apply by analogy.
2. Where the application referred to in subsection 1 is made by the creditor on whose application the Order was issued, it shall wherever possible be accompanied by the original European Enforcement Order certificate that is to be rectified. The debtor need not be summoned to appear. Rectification shall be ordered on a date to be determined by the court; that date shall be stated on the court's order and a rectified European Enforcement Order certificate shall be issued. The original European Enforcement Order certificate shall thereupon cease to have effect. If the application is dismissed, the original European Enforcement Order certificate shall be returned to the applicant.
3. Where the application referred to in subsection 1 is made by the debtor, the court shall not order rectification without first having given the creditor and the debtor the opportunity to make their views known. Rectification shall be ordered on a date to be determined by the court; that date shall be stated on the court's order, as shall such performance as has already taken place, and a rectified European Enforcement Order certificate shall be issued. The original European Enforcement Order certificate shall thereupon cease to have effect. The court shall instruct the creditor to deposit the new Order at the Court Registry.

Section 2(2) and (3) of the European Enforcement Order Implementation Act

2. An authentic copy of the order for which certification is requested and the document initiating proceedings shall be submitted with the application provided for by paragraph 1. Wherever possible the application shall furnish all such particulars as are needed by the court in order to certify the decision as a European Enforcement

Order in accordance with Annex I to the Regulation. If the documents or information supplied with the application are incomplete, the applicant shall be given the opportunity to amplify them.

3. The application provided for by paragraph 1 shall be served by a bailiff or prosecutor. Service by bailiff or prosecutor shall not be required in the event of certification of a decision by a district judge.

1.2. Withdrawal procedure

Withdrawal may be applied for on the form at Annex VI to the Regulation to the court that endorsed the order as an EEO. The procedure is governed by section 5 of the Implementation Act; it is a simplified petition procedure. That means that sections 261 *et seq.* of the Code of Civil Procedure will apply in addition to the Implementation Act. Sections 358 *et seq.* and 426 *et seq.* of that Code apply as regards appeals and cassation respectively.

Section 5 of the European Enforcement Order Implementation Act

1. An application for withdrawal of a European Enforcement Order certificate in accordance with Article 10(1)(b) of the Regulation shall be made on the form provided for by Article 10(3) of the Regulation to the court that endorsed the order as a European Enforcement Order. Section 2(2) and (3) shall apply by analogy.

2. Withdrawal shall be ordered, after the parties have been given the opportunity to make their views known, by order issued by the court on a date that it shall determine. The court may instruct the creditor to deposit the new Order at the Court Registry.

Section 2(2) and (3) of the European Enforcement Order Implementation Act

2. An authentic copy of the order for which certification is requested and the document initiating proceedings shall be submitted with the application provided for by paragraph 1. Wherever possible the application shall furnish all such particulars as are needed by the court in order to certify the decision as a European Enforcement Order in accordance with Annex I to the Regulation. If the documents or information supplied with the application are incomplete, the applicant shall be given the opportunity to amplify them.

3. The application provided for by paragraph 1 shall be served by a bailiff or prosecutor. Service by bailiff or prosecutor shall not be required in the event of certification of a decision by a district judge.

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

Review of a decision on an undisputed claim in accordance with Article 19 of the Regulation may be applied for in accordance with section 8 of the European Enforcement Order Implementation Act. If the review is to be ordered on the basis of section 8(3) by way of petition, sections 261 *et seq.* of the Code of Civil Procedure shall apply.

Section 8 of the European Enforcement Order Implementation Act

1. As regards decisions on undisputed claims to which the Regulation applies, the debtor may apply for review to the court that made the order on the grounds specified in Article 19(1)(a) and (b) of the Regulation.

2. If the application for review concerns a judgment, it must be made in the form of a writ of objection in accordance with section 146 of the Code of Civil Procedure.

3. If the application for review concerns a summary decision, it must be made in the form of a simple application.

4. Appeals must be brought:

a) in cases to which Article 19(1)(a) of the Regulation applies, within four weeks after the decision was served on the debtor;

b) in cases to which Article 19(1)(b) of the Regulation applies, within four weeks after the specified circumstances no longer obtain.

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

The languages accepted for the purposes of Article 20 of the Regulation are Dutch or any language understood by the debtor.

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

The authority designated by the Netherlands to certify a document as an EEO for the purposes of Article 25 of the Regulation is the judge for interlocutory proceedings at the court for the place where the notary who produced the original document is based.

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