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European enforcement order

Romania



Romania

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))

If the Enforcement Order is a court judgment, which includes court settlements or other legal agreements between parties, competence for certification lies with a court of first instance (Article 2(1) of Article 1[^]1 of Emergency Government Order No 119/2006 on measures necessary to implement certain Community Regulations from the date of Romania's accession to the EU, approved with amendments by Law No 191/2007, as amended).

An application to rectify a certificate is the competence of the court that issued the certificate. The court rules on applications to issue certificates by deciding without summoning the parties. A decision granting an application may not be appealed against. The certificate is issued to the creditor and a copy is sent to the debtor. An appeal may be brought against a decision rejecting an application within 15 days of the decision being issued if the creditor was present, and within 15 days of the decision being served if the creditor was not present. The same provisions apply accordingly in the case of a review on a point of law (*recurs*). (Articles 2, 3, 5 and 6 of Article 1[^]1 of Emergency Government Order No 119/2006 on measures necessary to implement certain Community Regulations from the date of Romania's accession to the EU, approved with amendments by Law No 191/2007, as amended).

An application to withdraw a certificate must be submitted to the court that issued it within one month of the certificate being served. If after summoning the parties, the court finds that the certificate was issued without the conditions provided for in Regulation (EU) No 805/2004 being met, it re-examines the measures taken and withdraws the certificate, in full or in part. An appeal may be brought against the decision within 15 days of it being served. The same provisions apply accordingly in the case of a review on a point of law (*recurs*). (Article 7 of Article 1[^]1 of Emergency Government Order No 119/2006 on measures necessary to implement certain Community Regulations from the date of Romania's accession to the EU, approved with amendments by Law No 191/2007, as amended).

Procedures for review mentioned in Article 19(1)

The procedures for review under Romanian legislation that are referred to in Article 19(1) comprise forms of ordinary redress: appeal (*apel*) and extraordinary redress: review on a point of law (*recurs*), action for annulment (*contestație în anulare*) and review (*revizuire*).

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

Procedures for review mentioned in Article 19(1)

The procedures for review under Romanian legislation that are referred to in Article 19(1) comprise forms of ordinary redress: appeal (*apel*) and extraordinary redress: review on a point of law (*recurs*), action for annulment (*contestație în anulare*) and review (*revizuire*).

Appeals are governed by Articles 466 to 482 of the Code of Civil Procedure.

Judgments given at first instance are open to appeal. The time limit for submitting an appeal is 30 days of the judgment being served. Enforcement of the first-instance judgment is suspended in the course of the appeal. The appeal and the grounds on which it is based are submitted to the court whose decision is being appealed against.

Once the time limit for the appeal has expired, the respondent is entitled, under the legal process in which the appeal made by the opposing party is being heard, to formulate an appeal in writing (known as a cross-appeal: *apel incident*) by means of an application of his or her own aimed at overturning the decision of the court of first instance.

In the event of joint litigation and when third parties have intervened in the first-instance proceedings, the respondent is entitled, once the time limit for appeal has expired, to bring an appeal in writing (known as a provoked appeal: *apel provocat*) against the other respondent or person who featured in the case heard at first instance and who is not a party to the main appeal, if the latter's involvement is ultimately such as to have consequences for the respondent's legal position in the proceedings.

The cross-appeal and the provoked appeal are lodged by the respondent together with the defence to the main appeal.

The appeal, duly submitted within the time limit, gives rise to a fresh assessment of the merits of the case, and the court of appeal issues its ruling both in fact and in law (devolutive effect of the appeal: *efectul devolutiv al apelului*).

The court of appeal will re-assess the merits of the case within the limits laid down by the appellant and with reference to the solutions dependent on the part of the judgment that has been appealed against. The devolution will apply to the entire case when the appeal is not limited to certain solutions of the operative part of the judgment under appeal, when the judgment is likely to be set aside or when the subject-matter of the dispute is indivisible.

The court of appeal may uphold the judgment appealed against, in which case it will reject or annul the appeal or declare the proceedings to have lapsed. If the appeal is allowed, the court may set aside or vary the judgment appealed against.

If it is found that the court of first instance wrongfully decided the case without examining its merits or that the case was heard in the absence of parties, who were not legally summoned, the court of appeal will annul the judgment appealed against and will hear the action, disposing of the case. However, the court of appeal will annul the judgment appealed against and refer the case for retrial to the court of first instance; referral for retrial may take place just once in the course of the proceedings.

If the court of appeal finds that the court of first instance lacked jurisdiction, it will annul the judgment appealed against and refer the matter for examination to the court with jurisdiction or, as appropriate, will reject the application as inadmissible.

If the court of appeal finds that it has jurisdiction at first instance, it will annul the judgment appealed against and examine the merits of the case.

The appellant cannot, as a result of his or her own appeal, be placed in a situation worse than that brought about by the ruling that is being appealed against.

Reviews on a point of law are governed by Articles 483 to 502 of the Code of Civil Procedure.

Judgments appealed against, those given without a right of appeal and others in cases expressly provided for are

amenable to review on a point of law. Rulings given on certain subjects such as the following are not subject to such review: legal guardianship, family, civil status, buildings administration, evacuation; easements, changes in boundaries, the marking of boundaries, obligations to carry out or not to carry out actions that cannot be measured in terms of money, judicial declaration of a person's death, judicial partition, a deceased person's estate, positive prescription, land ownership, civil navigation and port activities, labour disputes, social security, expropriation, consumer protection, insurance, claims under Act No 77/2016 on dation in payment of immovable property to extinguish obligations under a credit agreement. Judgments by appeal courts are not subject to review on a point of law in cases where the law provides that judgments of first instance are subject only to appeal.

The time limit for applying for a review on a point of law is 30 days of the judgment being served. The review on a point of law is dealt with by the court hierarchically superior to that which delivered the judgment that is being appealed against. At the appellant's request, the court dealing with the review can order the suspension of the judgment subject to review on a point of law.

A cross-review on a point of law and a provoked review on a point of law can be exercised in the cases specified for a cross-appeal and a provoked appeal.

Where a review on a point of law has been declared admissible in principle, the court, having verified all the grounds put forward and having examined the point of law, may allow, reject or annul it or declare the proceedings to have lapsed. If a review on a point of law is allowed, the judgment appealed against may be quashed in whole or in part. The quashed judgment has no force. The enforcement or insurance measures conducted on the basis of such a judgment have no force in law. The court will establish this, ex officio, by means of the judgment to quash the appeal.

If the appeal is quashed, the judgments of the court of appeal concerning the questions of law that have been resolved are binding on the court that examined the merits of the case. When the judgment has been quashed due to infringement of the procedural rules, the proceedings will begin again from the annulled act. After an appeal has been quashed, the court of first instance will hear the case again within the limits of the quashing and taking account of all the grounds invoked before the court whose judgment has been quashed.

When a point of law is being reviewed and when there is a retrial after a judgment has been quashed by the appeal court, the party concerned may not be placed in a worse situation.

Actions for annulment are regulated by Articles 503 to 508 of the Code of Civil Procedure.

Final judgments can be appealed against by means of an action for annulment where the complainant was not duly summoned and was not present when the case was examined. An action for annulment is submitted to the court whose judgment is being contested. It may be submitted within 15 days of service of the judgment and not later than one year from the date on which it became final. The court may suspend enforcement of the judgment in respect of which annulment is sought on condition that a security is lodged. If the ground of objection is well-founded, the court will deliver a single judgment annulling the judgment appealed against and determining the case. A judgment handed down in an action for annulment can be contested in the same way as the judgment appealed against.

Reviews are governed by Articles 509 to 513 of the Code of Civil Procedure

A review of a judgment on the merits of a case or that refers to the merits of a case may be sought if, for example, the party concerned has, in circumstances beyond his or her control, been prevented from appearing in court and has notified the court of this. The time limit for review is one month, counting from the end of the impediment. The court may suspend enforcement of the judgment in respect of which review is sought on condition that a security is lodged. If the court allows the application for review, it will vary, in whole or in part, the judgment appealed against and, in the event of conflicting final judgments, will annul those judgments. A judgment handed down in an action for a review is subject to the appeal procedures laid down by law in relation to reviewed judgments.

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

Romanian

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

If the Enforcement Order is an authentic instrument, competence lies with the district court of the district in which the issuer of that act is located (Article 2(2) of Article I¹ of Emergency Government Order No 119/2006 on measures necessary to implement certain Community Regulations from the date of Romania's accession to the EU, approved with amendments by Law No 191/2007, as amended).

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