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Red Europea de Formación Judicial (REFJ)
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MODULE IV

SUBJECT 12

**REGULATION (EC) N° 1896/2006 OF THE
EUROPEAN PARLIAMENT AND OF THE
COUNCIL OF 12 DECEMBER 2006
CREATING A EUROPEAN ORDER FOR
PAYMENT PROCEDURE**

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DISTANCE LEARNING COURSE
A SYSTEMATIC STUDY OF THE EUROPEAN
JUDICIAL AREA IN CIVIL AND COMMERCIAL
MATTERS: COMPETENCE, RECOGNITION AND
ENFORCEMENT OF JUDICIAL DECISIONS
2009-2010



Con el apoyo de la Unión Europea
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REGULATION (EC) No 1896/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 December 2006 creating a European order for payment procedure

1.Introduction and overview

The procedure is the first European regulation to impose upon Member States a civil procedure which will apply to cross border cases and be in addition to existing national procedures.

It provides a simple procedure where a creditor can obtain an enforceable judgment for payment of money against a creditor who has not opposed the initial stages

On the other hand the simplest of objection to the application for an EOP will stop the procedure in its tracks obliging the creditor either to abandon his claim or use the normal domestic procedure for obtaining a judgment for payment of money.

To jurists in member states where the norm is to require any claim to be submitted to judicial scrutiny before an enforceable judgment can be obtained this procedure which also provides for service of documents by post will seem revolutionary and very attractive to creditors.

In other member states where there is already an *injonction de payer* procedure or one such as in England and Wales where a judgment from the court for payment of money can be obtained by a default postal procedure without judicial intervention or scrutiny the EOP procedure will appear either unremarkable or cumbersome

Whilst the Procedure is imposed upon member states , domestic procedural rules will apply in respect of any application that has to be made to a judge to review or set aside an order and the fees payable will be fixed nationally and thus potentially be quite disparate

The rationale behind the procedure was the Commission's Green Paper of 20 December 2002 which launched consultations on the harmonisation of procedure for the recovery of uncontested claims in that it was felt that the swift and efficient recovery of outstanding debts over which no legal controversy existed was of paramount importance for economic operators in the European Union, as late payments constitute a major reason for insolvency threatening the survival of businesses, particularly small and medium-sized enterprises, and resulting in numerous job losses.

Whilst various member states had already adopted discrete measures they were often either inadmissible or impracticable in cross border cases.

The aim of the Regulation is to guarantee a level playing field for creditors and debtors throughout the European Union.

The Regulation comes into force on 12th December 2008 and applies in all member States except Denmark

This paper is not a substitute for detailed consideration of the Regulation itself. In particular the Forms in the Annex to the Regulation should be studied as they contain many useful notes for guidance and are in effect a mini “walk through” the procedure

2. To what does the EOP apply (Article 2)

To civil and commercial matters in cross-border cases, whatever the nature of the court or tribunal. except:

- revenue, customs or administrative matters
- the liability of the State for acts and omissions in the exercise of State authority (*‘acta iure imperii’*).
- rights in property arising out of a matrimonial relationship, wills and succession;
- bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;
- social security;
- claims arising from non-contractual obligations, unless:
 - (i) they have been the subject of an agreement between the parties or there has been an admission of debt,
 - or
 - (ii) they relate to liquidated debts arising from joint ownership of property.

3. Cross border cases (Art 3)

Are defined as a case where at the time of invocation of the procedure at least one party is domiciled in a member state other than that in which the procedure is applied for

4. Domicile and Jurisdiction

Is governed by Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Articles 59 and 60 of which govern the determination of Domicile (Article 3. 2)

The principal rule is that Defendants should be sued in the member state of their domicile (Art 2 44/2001) with the following general variations

In contract cases the courts for the place of performance of the obligation may be seised (Art 5 . 1 of 44/2001)

In maintenance matters the courts for the place where the creditor is domiciled (Art 5.2 *ibid*

In cases relating to *tort delict* or *quasi delict* the courts for the place where the event occurred Art 5.3 *ibid*

(there are also specific rules for disputes arising out of operation of branches or agencies, trust disputes cargo salvage and Insurance which are outside the scope of this paper but which should be consulted where relevant)

See Article 18 (*ibid*) as to Employers;

Employees may only be sued by their employer in the member state of the
Employee's domicile (Article 20 *ibid*)

Although Article 15 of 44/2001 has special rules as to Consumers , Article 6.2 of the EoP regulation specifically provides that a consumer, who has contracted for a purpose which can be regarded as being outside his trade or profession may only be sued in the court of his domicile.

The application form itself sets out a useful summary of the various grounds for jurisdiction has helpful notes and boxes to be completed to prove that jurisdiction is founded

5. Application for an Order

Is made in the court with jurisdiction as set out above (the "member state of origin") on the prescribed form (which will be in the language of that member state).

The form is however available in all official community languages so that the person completing it can compare a form in his or her own language if that differs from that of the court to be seised.

Article 7 makes use of the form at Annex A mandatory and sets out what the application must contain which is all replicated on the Form. The notes to the form are very comprehensive

Article 7.2 as to interest and costs may cause concern and/or debate insofar as they relate to interest and or costs

There is a specific reference to those member states where interest is automatically added by statute.

Otherwise by what law is the recoverability of interest and or costs governed?

If the contract out of which the claim arises makes provision for interest and or costs then the answer is simple.

It is conceivable however that in a consumer case the Article may require the Procedure to be invoked in member state A where the Defendant is domiciled but the law governing the contract (and therefore probably the question of interest as well) may be that of another member state . Unless the national law of the court of origin specifically prohibits the charging of interest in a particular case it is suggested that the law governing the contract will prevail, but save as provided by contract in the case of claims for costs the national law of the court seised will it is submitted prevail as to what costs are recoverable.

The pragmatic answer is that it probably does not matter by virtue of the objection procedure whereby no reason has to be given to object and , even if one were required a dispute as to the costs and or interest recoverable would be a valid ground of objection in any event

To Common lawyers the requirement of a description of the evidence supporting the claim (Article 2. 2e may seem novel but in fact can be met by a references to invoices and the original contract (as applicable) On the other hand to others .as observed above the lack of requirement for judicial scrutiny may be to say the least novel

The form contains a mandatory declaration as to the veracity of the information supplied (subject to penalty for false statement)in accordance with national law

Where the receiving court has the facility the form may be lodged electronically and have an electronic signature in accordance with Article 2(2) of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures. The signature shall be recognised in the Member State of origin and may not be made subject to additional requirements.

There are further specific waivers where alternative secure electronic communications systems exist between courts in some member states and authenticated users.

Importantly the Applicant **may** state that in the event of Opposition being filed (Article) he does not wish Application to be transferred to ordinary procedure in the court seised (Art This

information together with the information as to how the Applicant pays Court fees is NOT communicated to the Defendant

6. Examination and Issue of the EoP (Articles 8-12)

Article 8 provides that the court shall examine the application to see if the requirements of the preceding Articles are met and the claim "Appears to be. founded

There is provision for this examination to be automated.

Clearly the completion of a great deal of the form is easily checked for accuracy legibility and completeness It remains to be seen however how the words "whether the claim appears to be founded" will be applied from member state to member state and what if any judicial involvement there will be The requirement for examination as to grounds and the provision for automation do not sit happily together. The words do not however require that the claim IS founded merely that it APPEARS to be founded . Perhaps therefore the threshold is not in fact very high. Support from this view may be gained from the words "*unless the claim is clearly unfounded*" in Article 9 and *clearly unfounded* in Article 11 (Again there is the safeguard of the absolute right of opposition)

Effectively the court has the following options:

- Accept the Application and issue the Order for Payment Art 12
- Require Completion and or rectification of the Application Art 9
- Propose a modification of the Application Art 10
- Reject the application Art 11

7.Completion and or rectification Article 9 if it appears that the Application is redeemable then the Court sends Form B requiring a reply within such time as it appears reasonable to the court (Art 9) Unless domestic rules make specific provision it is suggested that longer periods should be allowed where the Applicant is in another member state and /or is not apparently fully conversant with the language of the member state of the court. The court may extend any time limits imposed under this Article

8.Modification of the Application - Article 10 If the court considers that the application is severable and that the procedure is applicable to only part it may send Form C to the Applicant giving notice of its intention to issue an order for only part of the amount on the application. Form C will specify a time for reply set by the court. If the Applicant returns form C consenting to the modification the Order for the amount specified in Form C the Order for Payment will be issued . If he fails to reply the application will be rejected . Interestingly there are no provisions for extensions of time to be granted by the court

9.Rejection of the Application Article 11

1. The court shall reject the application if:

- (a) the requirements set out in **Articles 2, 3, 4, 6 and 7** are not met;
or
- (b) the claim is clearly unfounded;
or
- (c) the claimant fails to send his reply within the time limit specified by the court under Article 9(2);
or
- (d) the claimant fails to send his reply within the time limit specified by the court or refuses the court's proposal, in accordance with Article 10.

The claimant is informed of the grounds for the rejection by use of form D

There is be no right of appeal against the rejection of the application but . The rejection of the application does not prevent the claimant from pursuing the claim by means of a new application for a European order for payment or of any other procedure available under the law of a Member State.

10. Issue of the Order Article 12

requires the court to issue the Order for payment within 30 days of receipt of the application excluding any time taken to complete modify or rectify the application (the 30 day limit is mandatory)

The order is issued in Form E which sets out the details of the parties (and their representatives) attaches a copy of the Application itself and on the second page orders the Defendant to pay the sums therein set out

The **important information** section warns the Defendant that the order becomes enforceable at the end of 30 Days UNLESS he either pays the full amount to the Claimant or lodges a statement of Opposition

The 30 days includes weekends and public holidays but if the 30 day period would expire on a public holiday it expires on the following day (Council Regulation (EEC,Euratom) No 1182/71 of 3 June 1971

11. Opposition to the order for Payment Articles 16 and 17

- Must be filed within the 30 day period
- Should be in Form F but any clear statement of opposition will suffice
- Reasons for opposition do not have to be given
- Similar rules apply to electronic communication and signature as from the application itself

Once the statement of opposition is filed the Order ceases to be of any effect and unless the Claimant has said that he does not wish the proceedings to continue, the proceedings will continue as ordinary civil proceedings in accordance with domestic law and rules of procedure.

Article 17 prohibits provisions in domestic law prejudicing the Claimants position for having commenced with an EoP

The Claimant must be notified of the lodging of the statement of opposition and (if applicable) the transfer to ordinary civil proceedings but interestingly at this stage there is no requirement for notification of the latter fact to the defendant !

12. SERVICE of the Order

Article 12. 5 provides:

The court shall ensure that the order is served on the defendant in accordance with national law by a method that shall meet the minimum standards laid down in Articles 13, 14 and 15.

It is inappropriate to paraphrase Articles 13 to 15 inclusive which provide:

Article 13 Service with proof of receipt by the defendant

The European order for payment may be served on the defendant in accordance with the national law of the State in which the service is to be effected, by one of the following methods:

- (a) personal service attested by an acknowledgement of receipt, including the date of receipt, which is signed by the defendant;
- (b) personal service attested by a document signed by the competent person who effected the service stating that the defendant has received the document or refused to receive it without any legal justification, and the date of service;
- (c) postal service attested by an acknowledgement of receipt, including the date of receipt, which is signed and returned by the defendant;
- (d) service by electronic means such as fax or e-mail, attested by an acknowledgement of receipt, including the date of receipt, which is signed and returned by the defendant.

Article 14 *Service without proof of receipt by the defendant*

1. The European order for payment may also be served on the defendant in accordance with the national law of the State in which service is to be effected, by one of the following methods:

- (a) personal service at the defendant's personal address on persons who are living in the same household as the defendant or are employed there;
- (b) in the case of a self-employed defendant or a legal person, personal service at the defendant's business premises on persons who are employed by the defendant;
- (c) deposit of the order in the defendant's mailbox;
- (d) deposit of the order at a post office or with competent public authorities and the placing in the defendant's mailbox of written notification of that deposit, provided that the written notification clearly states the character of the document as a court document or the legal effect of the notification as effecting service and setting in motion the running of time for the purposes of time limits;
- (e) postal service without proof pursuant to paragraph 3 where the defendant has his address in the Member State of origin;
- (f) electronic means attested by an automatic confirmation of delivery, provided that the defendant has expressly accepted this method of service in advance.

2. For the purposes of this Regulation, service under paragraph 1 is not admissible if the defendant's address is not known with certainty.

3. Service pursuant to paragraph 1(a), (b), (c) and (d) shall be attested by:

- (a) a document signed by the competent person who effected the service, indicating:
 - (i) the method of service used;
 - and
 - (ii) the date of service;
 - and
 - (iii) where the order has been served on a person other than the defendant, the name of that person and his relation to the defendant;
- or
- (b) an acknowledgement of receipt by the person served, for the purposes of paragraphs (1)(a) and (b).

Article 15 *Service on a representative*

Service pursuant to Articles 13 or 14 may also be effected on a defendant's representative.

Commentary;

In the writer's opinion these Articles are fraught with both practical and interpretative difficulties.

Taking the last point – service on a representative – first; at first glance it appears straightforward but the question must be how is one to determine who is the Defendant's representative – looking at the application form (Form A) there is reference to both "representative" and "legally authorised representative with the footnote "eg lawyer" to the former. Who decides whether the alleged representative is in fact such?

Clearly national rules of law and procedure will apply for example in English law only a solicitor who has stated in writing that he is authorised either to accept service of all proceedings on behalf of a specific Defendant , or specified proceedings can be deemed competent to accept service.

Whilst the applicable law for the issue of the order is that of the Court of origin, the applicable law for service is that of the member state in which service is effected; care must be taken in that at least one member state has more than one set of laws and rules of procedure (England & Wales, Scotland, and Northern Ireland, all within the UK, have separate legal systems

In the case of both service with acknowledgement of receipt (Article 13) and without acknowledgment (article 14) service must be in accordance with both national law **and** the prescribed methods.

Thus if service on a person residing at the same address as the Defendant or service by deposit at a post office /other competent authority is not permitted by national law, although prescribed by the Regulation , would not be permissible.

In some member states where there are not officially authorised Process servers, or where there are no specific rules as to who may and who may not serve court proceedings there may be debate as to who is a "competent person" If the member state of service is not that of the court of origin the court of origin may need to seek assistance or guidance via the European judicial network

It scarcely needs to be said that the one occasion when there is no problem proving service will be when the Defendant files a notice of opposition , but of course that stops the EoP dead in its tracks !

Again there may be lively debate as to the interpretation of the words in Article 14.2 "*defendant's address is not known with certainty*" - to some jurists that phrase may be crystal clear but others may have argument as to whose state of mind and the degree of certainty and even burdens and standards of proof

It will of course be for the Court to satisfy itself that due service has been effected before declaring the Order enforceable

13. Enforcement and Enforceability

Exequatur Article 19

The need for any other formal steps for recognition and enforcement of an EoP in another member state is abolished

Article 18 – if the defendant has not filed a statement of opposition within the 30 day period , the court , having verified the date of service, and by implication that service was effected

pursuant to both national Law and articles 13- 15 must without delay declare the E Op to be enforceable using Form G and send it to the claimant.

The formal requirements for enforceability are governed by the member state of origin but by **Article 21. 1** enforcement procedures are governed by the member state of enforcement. An Eop which has become enforceable is to be enforced in effect as if it were an enforceable judgment made in the member state of enforcement.

To seek enforcement the Claimant must lodge a copy of the order together with a translation with the competent enforcement authorities of the relevant member state where enforcement is to take place.

The copy order has to "satisfy the conditions necessary to establish its authenticity" which one assumes will be an administrative matter assisted by the Commission and its committee via the offices of the judicial network.

Similarly a translation (if required) into a relevant community language has to be "certified by a person qualified to do so in one of the Member States".

Importantly, **Article 21. 3** provides that:

No security, bond or deposit, however described, shall be required of a claimant who in one Member State applies for enforcement of a European order for payment issued in another

Member State on the ground that he is a foreign national or that he is not domiciled or resident in the Member State of enforcement.

This reinforces the fundamental principle of European Community law that a national of one member state should not be treated less favourably in another member state than a national of that state.

14. Appeals Review and refusal of enforcement

There is no right of appeal against the issue of an enforceable EoP.

Articles 20, 22 and 23 give exceptional remedies.

15. Review - Article 20

After the Article 16(2) Opposition period had expired the Defendant may apply to the court which issued the EoP to review (set aside) the order on the following grounds:

(a) (i) the order for payment was served by one of the methods provided for in Article 14, and

(ii) service was not effected in sufficient time to enable him to arrange for his defence, without any fault on his part, or

(b) the defendant was prevented from objecting to the claim by reason of *force majeure* or due to extraordinary circumstances without any fault on his part,

or under **Article 20 2** if

the order for payment was clearly wrongly issued, having regard to the requirements laid down in

this Regulation,

or due to other exceptional circumstances.

In cases (a) or (b) he is required to act promptly but in the other cases, somewhat surprisingly he is not.

The manner of making the application to the court will be governed by the law and procedural code of the member state of origin.

The ground of lack of time without any fault on the part of the Defendant will be a very fact sensitive decision as will the *force majeure* application.

It must be noted that ground (a) only applies where service was under Article 14 ie without proof of receipt by the Defendant.

If service was under Article 13 the Defendant can only seek a review on the ground that the order for payment was fatally flawed or "other exceptional circumstances" - no examples of such circumstances are cited; it will be for the judge to decide what constitutes an exceptional circumstance bearing in mind his or her national law. Para 25 of the preamble gives an example:

"other exceptional circumstances could include a situation where the European order for payment was based on false information provided in the application form."

Article 22.3 unsurprisingly provides that if the court decides the review is justified the EoP is null and void and conversely if it finds that no grounds for review exist then the EoP remains in force

16. Refusal of enforcement Article 22

1. Enforcement shall, upon application by the defendant, be refused by the competent court in the Member State of enforcement if the European order for payment is irreconcilable with an earlier decision or order previously given in any Member State or in a third country, provided that:

- (a) the earlier decision or order involved the same cause of action between the same parties;
- and
- (b) the earlier decision or order fulfils the conditions necessary for its recognition in the Member State of enforcement;
- and
- (c) the irreconcilability could not have been raised as an objection in the court proceedings in the Member State of origin.

It is clear from the word “and “ between subparagraphs (a) (b) and (c) that **all three** prerequisites must be present in order for the Court to refuse enforcement; Subparagraphs (a) and (b) replicate Article 34. 3 and 4 of 44/2001 but (c) is a little more complex.

One could argue that the Defendant could have “raised objection” merely by filing a statement of opposition on receipt of the original EoP. If that is the case then the only time that Article 22 will engage is if the “earlier decision previously given “ was given after the issue but before the enforcement of the EOP. Again looking at the English version of the text there may be argument as to whether “earlier” and “previously “ refer to a decision made before the issue of the EOP rather than before its enforcement.. The French version is perhaps less ambiguous in that it refers to *une décision rendue ou une injonction délivrée antérieurement* . Thus the French version avoids the use of a double reference to the past

As this Article is in effect the last ditch attempt by the debtor to effectively prevent enforcement were it not for the requirement of inconsistency (which clearly will only apply in a limited number of cases it could have been a fruitful source of litigation , but in the view of the author in the light of the difficulties at least with the English text this question may well not only exercise the minds of courts in member states but in all probability be the subject of a reference to the court in Luxembourg!

Art 22.2 provides , unsurprisingly that Enforcement shall, upon application, also be refused if and to the extent that the defendant has paid the claimant the amount awarded in the European order for payment.

Art 22.3 Provides that . Under no circumstances may the European order for payment be **reviewed as to its substance** in the Member State of

17 Stay or limitation of enforcement Article 23

Where the defendant has applied for a review in accordance with Article 20, the competent court in the Member State of enforcement may, upon application by the defendant:

- (a) limit the enforcement proceedings to protective measures;
- or
- (b) make enforcement conditional on the provision of such security as it shall determine;
- or
- (c) under exceptional circumstances, stay the enforcement proceedings.

It should be noted that staying enforcement completely is described as an exceptional remedy

18. Legal representation :

Article 24 provides that Legal representation is not mandatory for the Application for or opposition to an EOP.

It follows therefore that national legislation could provide for compulsory legal representation in respect of proceedings for review, refusal, stay or limitation of enforcement.

19. Court fees Article 25

Member states may fix the fees for an application for an EOP but if after a statement of opposition is filed the proceedings continue as ordinary proceedings the total fees chargeable must not be more than the fee payable for ordinary proceedings without an antecedent EOP application.

Para 2. defines court fees as "fees and charges to be paid to the court, the amount of which is fixed in accordance with national law." Thus fees for service payable to an independent person or body do not fall within the limit.

20. Relationship with national procedural law Article 26

"All procedural issues not specifically dealt with in this Regulation shall be governed by national law."

Articles 27 to 32 contain administrative provisions for the commission and member states including provisions ensuring that member states notify the commission which courts have jurisdiction, means of communication and languages.

The European Judicial network is of course the forum through which information is available.

Article 33 brings the procedure into force on 12 December 2008.

District Judge Gordon Y Lingard

**June 2008
Bradford,
West Yorkshire,
United Kingdom**

Questions

1. A creditor in member state A which does not have an *injonction de payer* or default judgment procedure wishes to obtain a speedy enforceable title against a debtor in the same member state and issues an EOP against the debtor - is the procedure effective?

ANSWER this is clearly not a Cross border case as defined by Article 3 and therefore the court must reject the application.

2. Creditor in France A wishes to apply for a European Order for Payment against Debtor who resides in Malta in which court can he issue the application:

- a) if both are individuals
- b) if the debtor purchased an item for domestic use from the creditor's shop for which he has not paid
- c) where Creditor was employed by Debtor
- d) Where Debtor was employed by Creditor

ANSWERS see Regulation EC No 44/2001 and Article 6 of this regulation

- a) In all circumstances in the courts of Malta ;only in France if for example the place of performance of the obligation was in France (art 5 of the 2001 Regulation .
- b) if as appears this was a consumer transaction Article 6 is engaged and prescribes Malta only
- c) Malta and possibly France if the work was carried out there (see Article 19 of the 2001 regulation)
Malta only (art 19 of the 2001 Regulation)

3. What evidence must a Claimant submit with his application

ANSWER (Article 7.2 (e)) the actual evidence does not need to be provided merely a description of it ie a reference to an invoice its date number and the amount stated thereon should suffice

4. what is the effect of a failure to complete the Application form fully?

ANSWER The court receiving the application may ask for it to be completed or rectified using Form B in Annex II

5 On examination the court considers that only part of the claim is justified what course of action can it adopt

ANSWER the court may require the applicant to modify the amount claimed (Article 10) using Form C

6. Must the Application be seen and approved by a judge

ANSWER Arguably not – obviously member states will adopt their own procedures but the Regulation presupposes that the forms will be checked administratively rather than judicially

7. Who serves the Order?

ANSWER

The Regulation is silent so one assumes that it is for the Applicant to serve unless domestic law provides otherwise

8. By what rules is service governed ?

ANSWER

Generally by domestic law of the Member State in which service is effected but additionally the method allowed by domestic law must be one of those set out in Article 13 or 14

9. Can service be effected by a method set out in Article 13 or 14 where such a method is not permitted by the law of the Member State?

ANSWER

Whilst as a general rule Community law takes precedence both articles 13 and 14 refer to service *“in accordance with the national law of the state in which service is effected”*

10. The debtor does not file a statement of opposition in Form F but writes to the Creditor in clear terms saying that he objects to making payment. Is the

Creditor entitled to request a n enforceable order because there has been no opposition i9n proper form?

ANSWER

The Regulation is silent, one should look at the procedural code for the member state of origin which may help. In any event the Regulation does not specifically provide that the statement of Opposition **must** be in Form F. Therefore it is suggested that a liberal rather than strict interpretation should be applied and treat any cogent written statement signifying opposition should be treated as bringing the procedure to an end and transferring it to domestic proceedings

11. If no grounds or spurious grounds of opposition are stated in Form F can the creditor apply to the court to dismiss the statement of opposition?

ANSWER

No – the debtor has an absolute right to object for whatever reason

12. Does the debtor know that the creditor has said in his application that if objection is lodged he does not wish to proceed?

ANSWER No this information is supplied to the court only

13 Having received an enforceable European Order for payment issued in member state A but served on him in member State B the Defendant wishes to appeal - in which court and in which state does he lodge his appeal?

ANSWER: There is NO right of appeal against the making of an order for payment but he may be able to apply for a review under Article 20 if he can meet any of the strict requirements – that application is made to the court which issued the order for Payment. Otherwise he might be able to apply to the court of the member state of enforcement if he falls within the even more limited grounds in Article 22 (incompatibility) or on the ground that he has paid

Biographical Note

District Judge Gordon Y. Lingard sits in civil and family cases in Bradford and Skipton in Yorkshire.

He was awarded an LL.B. (Honours) by the University of London in 1970

In 1971 he was awarded First Class Honours (being placed 4th in order of merit) in Part II of the Law Society of England and Wales Qualifying Examinations.

He practised as a Solicitor in Kingston upon Hull from 1973 until 1993 when he was appointed as a District Judge of the County Courts and District Registry of the High Court (having served in a part time capacity since 1988)

He is currently a member of the civil continuation course tutor team for the Judicial Studies Board of England and Wales and is Treasurer and Assistant Secretary of The Association of Her Majesty's District Judges.

He has participated in a number of conferences of European judges and has contributed to training seminars of the Ecole Nationale de la Magistrature in both Paris and Bordeaux.