

THE RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

SASKIA POLÁČKOVÁ

Fakulta práva, Ústav súkromného práva, Bratislavská vysoká škola práva, Bratislava

ALEXANDRA KOTRECOVÁ

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Regulation, recognition, enforcement, Brussels I., Brussels II. bis, The Code of International private Law and Process Law

Resume

The article is dealing with the application of Regulations Brussels I., Brussels II. bis and the Proposal for a Council Regulation on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations in Slovak republic, especially in case of recognition and enforcement of judgements.

The article is divided into several parts which deal with each and every regulation separately. This section is followed by the Slovak Law section, namely with the Code of International Private Law and Process Law, Civil Process Code and Family Law Code.

The chosen Regulations are all containing sections about the recognition and enforcement of judgements which area are maintenance obligations. The reason of choosing maintenance obligations is that this are one of the most frequent decisions and the subjects / minors should be the most protected group since they depend on the help of their parents.

Regulations

The Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters was one the first regulations that introduced the recognition and enforcement of judgements into EC.

The history of this regulations starts with the Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters of 1968 which was the precedent international law regulations that bounded only states which ratified the convention. For this reason the EC decided to accept the EC regulation that would bound all the states of EC. The same developement applied for the Brussels II. bis regulation and the Proposal as well.

The reasons that led EC to create the Brussels I. regulation were the protection of the internal market which is connected with the freedom of free movement of persons, to support judicial cooperation between Memeber States and to simplify the formalities with a view to rapid and simple recognition and enforcement of judgments from Member States¹.

The recognition and enforcement are defined in the Chapter III of Brussels I.. The main point is to unify the process of recognition and enforcement in Member States by prohibiting any special procedure. The only reasons for denying the recognition and enforcement in Member State are given in the enoumerating list.

Aplication of EC Regulations in Slovak republic

Since the entry of Slovak republic into the EU the judicial institutions are forced to apply Law of the EU. Eventhough the regulation as a legal instrument is directly exercisable in Member State, it needs to be „connected“ with the rest of the legal system. The connection in the Slovak Law is provided by The Code of the International Private Law and Process Law, The Civil Process Code and the Family Law Code.

The main part of the procedure of the recognition and enforcement are contained in the Code of the International Private Law and Process Law. The Code itself is from the year 1963, so naturally it would not contain the Regulation or Convention. The change came with the Act No. 589/2003 of Coll.. This new Law made the connection between the Regulations and the Slovak Law system.

¹ Preamble, p. 2, Brussels I.

According to the Code, the whole procedure will be made only on the formal niveau, meaning the court will only control the formal side of the foreign decision and not the substantial side of the decision, which is prohibited.

The parties of the procedure are already given by the decision that should be recognised. The duty of the entitled party, if it does not have the domicile in the Slovak republic, is to authorise a person that is Slovak citizen to collect the court writings. The other duty of the entitled party is to deliver the proposal with all the documents that are enumerated in the Code in order to make the foreign decision recognised and later to enforce it.

Eventhough the main goal of the EU legislator was to simplify and unify the judicial cooperation between the Member States, I have to say that the way to make it „easy“ for the EU citizens is long and will need more of the „real“ simplification on the side of the Member States. But the given direction in the EU concerning internal market and the migration of persons will bring even bigger need of coordination between the Member States and the Member States and the EU.