DIJuF

Deutsches Institut für
Jugendhilfe und Familienrecht e. V.
Forum für Fachfragen

Child Support Forum
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Filing a cross-border application for enforcement of a child support order

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Agenda

Focus: Filing enforcement applications for child support under the Regulation 4/2009 (EU Maintenance Regulation)

I. How to file the application with and without CA?

II. Requirements for enforcement under the Maintenance Regulation

III. Forms and attachments

IV. Reasons for refusing the enforcement

Filing the application with or without Central Authorities

- CJUE (C 283/16), 09.02.2017

  “a maintenance creditor who has obtained an order in one Member State and wishes to enforce it in another Member State may make an application directly to the competent authority of the latter Member State, such as a specialised court, and cannot be required to submit the application to that court through the Central Authority of the Member State of enforcement.”

- Decision depends on individual case-by-case assessment
  - Do I speak the language of the executing state?
  - Are both Central Authorities involved providing effective assistance?
  - How complicated is the application process?
  - How urgent is the matter?
  - Are any special measures necessary before enforcement proceedings are initiated?
  - Costs of proceedings?

Requirements for Enforcement under the EU-Maintenance Regulation

- Abolition of *exequatur* for most maintenance orders (Art. 17)
  - Maintenance orders (decisions and authentic instruments) enforceable in the EU-State of origin
  - Issued on or after June 18, 2011 + proceedings initiated on or after June 18, 2011
- Exceptions (declaration of enforceability still necessary)
  - Danish orders, because Denmark is not a Contracting State to the 2007 Hague Protocol
  - Orders established or proceedings introduced before June 18, 2011
- No further requirements under national law!

Forms and other attachments

- Applications under Art. 56 sec. 1 b)
  - Annex VI Form
  - Attachments according to Art. 20:
    - Certified copy of the order
    - EU-bilingual forms: Annex I-IV
    - Calculation of arrears
- Direct applications
  - No application form
  - Attachments according to Art. 20

No translation of the order can be required at this stage by the enforcement authorities!

Reasons for Refusing the Enforcement (Art. 21)

- Grounds of refusal or suspension of enforcement under the law of the Member State (Art. 41)

- Special legal remedies under Union law (Art. 21 sec. 2-3)
  - The longest limitation period applies
  - Incompatibility with a decision given in the Member State of enforcement or in another Member State or in a third State which fulfils the conditions necessary for its recognition in the Member State of enforcement
  - application for a review of the decision of the court of origin pursuant to Article 19
  - enforceability suspended in the Member State of origin

Thank you for your attention!

Questions?

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