

German Article on the Procedure for a Declaration of Enforceability under the Brussels Regulation

Burkhard Hess and *David Bittmann* (both Heidelberg) have published a very interesting article on the possibilities for an increase of efficiency of the procedure for a declaration of enforceability according to the Brussels I-Regulation (“Die Effektivierung des Exequaturverfahrens nach der Europäischen Gerichtsstands- und Vollstreckungsverordnung”) in the latest issue of the “Praxis des Internationalen Privat- und Wirtschaftsrecht” (IPRax 2007, 277 et seq.).

An English abstract has kindly been provided by *David Bittmann*:

The article evaluates possible ways to increase the efficiency in cross-border enforcement proceedings according to the Brussels I-Regulation. This contribution is based on a comparative study of the application of the Regulation in 25 Member States conducted by the Institute for Private International Law and Business Law of the University of Heidelberg (Prof. Dr. Burkhard Hess and Prof. Dr. Thomas Pfeiffer) in cooperation with Prof. Dr. Peter Schlosser (University of Munich). The study has been supervised by the European Commission. In the first part of the article, the authors show possible ways forward to accelerate the time for obtaining a declaration of enforceability by shifting the competence for granting the declaration from the presiding judge of the Landgericht (Regional Court) to a court’s clerk (Rechtspfleger). A comparison is drawn with the proceedings according to the Regulation creating a European Enforcement Order for uncontested claims and to the national proceedings for obtaining a warrant of execution. These proceedings lie already, in most of the Member States evaluated in the article, in the hands of a court’s clerk. As a consequence, the same procedure should be chosen for the declaration of enforceability. The second part deals with possible improvements of the procedure of exequatur. The authors suggest an extension of the standard form in Annex V of the Brussels I-Regulation. The standard form should be drafted in accordance with the standard form of the new Regulation creating a European Payment Order, which entails all necessary details for an immediate enforcement of the foreign title, such as interest or the maturity of

the claim. The result of such an extension was, that the time-consuming procedure for obtaining a declaration of enforceability would no longer be necessary, at least for the enforcement because of money debts. The foreign bailiff could start enforcement proceedings without the interference of the court, because all details concerning the foreign claim can be taken directly from the form. The standard form would have the effect of a "judicial passport".