

# **The CJEU on the scope of the Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims.**

On 14 December 2017 the CJEU has ruled on the scope of the Regulation (EC) No 805/2004 European Enforcement Order for uncontested claims - Case C-66/17.

As stated by the CJEU, 'Article 4(1) and Article 7 of Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims must be interpreted as meaning that an enforceable decision on the amount of costs related to court proceedings, contained in a judgment which does not relate to an uncontested claim, cannot be certified as a European Enforcement Order.'

In the meantime, given the definition of an uncontested claim, a EEO can be issued only in relation to a condemnatory decision, not in relation to a declaratory one.

## **Facts and main proceedings**

Mr and Mrs Chudas had brought a declaratory action before a Polish court of first instance to establish whether they had acquired the right of ownership over a motor vehicle. The DA Deutsche Allgemeine Versicherung Aktiengesellschaft (Germany) was summoned to appear in the proceedings as defendant, but did not appear.

The court delivered a default judgment, in which it held that Mr and Mrs Chuda? had acquired the right of ownership over the motor vehicle and ordered DA Deutsche Allgemeine Versicherung Aktiengesellschaft to pay the costs of the proceedings. Mr and Mrs Chudas then initiated the procedure in order to have to the costs of the proceedings certified as a European Enforcement Order.

The District court had doubts as to whether the type of decision felt within the

substantive scope of the Regulation No 805/2004 and referred following question to the Court of Justice for a preliminary ruling.

### **Question for a preliminary ruling**

[24] ‘Should Article 4(1) of Regulation ... No 805/2004 ..., read in conjunction with Article 7 of that regulation, be interpreted as meaning that a European Enforcement Order certificate may be issued in respect of a decision concerning reimbursement of the costs of proceedings contained in a judgment in which a court has established the existence of a right?’

### **Main considerations**

According to the CJEU,

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[31] Article 4(1) of that regulation defines a ‘judgment’ as encompassing any judgment given by a court or tribunal of a Member State, including ‘the determination of costs or expenses by an officer of the court’. Second, an enforceable decision on the amount of costs related to the court proceedings amounts, in principle, to a ‘claim’ within the meaning of the definition of that term provided by Article 4(2) of the regulation.

[32] However, as has been noted in paragraph 29 of the present judgment, under the specific provisions governing costs related to court proceedings laid down in Article 7 of Regulation No 805/2004, a decision on the amount of such costs cannot be certified as a European Enforcement Order independently of a judgment on an uncontested claim. In so far as the decision on those costs is intrinsically linked to the outcome of the principal action, which alone justifies the certification of a judgment as a European Enforcement Order, the definitions laid down in Article 4 of that regulation cannot affect the applicability of the regulation.