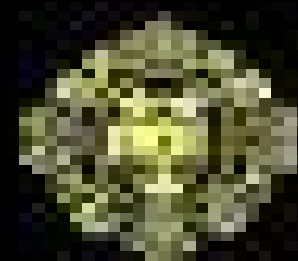


THE EUROPEAN COURT OF JUSTICE AND THE ENFORCEMENT OF
JUDICIAL DECISIONS IN EUROPE

THE ENFORCEMENT OF JUDGMENTS IN EUROPE

WENDY KENNEDY



OXFORD

Enforcement Of Judgments In Europe

**Yann Aubin, Louis de Longeaux, Jean-
Claude Vecchiatto**



Enforcement Of Judgments In Europe:

Enforcement of Judgments in Europe Wendy A. Kennett, 2000 The idea of a European Judicial Area has gathered force since the negotiation of the Amsterdam Treaty amending the TEU and conferring competence on the European Community in relation to measures of judicial cooperation One of the areas targeted for rapid attention is improvement in the recognition and enforcement of civil judgments in Europe with plans for the mutual recognition of judgments *Free Movement of Civil Judgments in the European Union and the Right to a Fair Trial* Monique Hazelhorst, 2017-02-27 This book examines the attainment of complete free movement of civil judgments across EU member states from the perspective of its conformity with the fundamental right to a fair trial In the integrated legal order of the European Union it is essential that litigants can rely on a judgment no matter where in the EU it was delivered Effective mechanisms for cross border recognition and the enforcement of judgments provide both debtors and creditors with the security that their rights including their right to a fair trial will be protected In recent years the attainment of complete free movement of civil judgments through simplification or abolition of these mechanisms has become a priority for the European legislator The text uniquely combines a thorough discussion of EU legislation with an in depth and critical examination of its interplay with fundamental rights It contains an over view and comparison of both ECtHR and CJEU case law on the right to a fair trial and provides a great number of specific recommendations for current and future legislation With its critical discussion of EU Regulations from both a practical and a theoretical standpoint this book is particularly relevant to legislators and policymakers working in this field Because of the extensive overview of the functioning of the EU s mechanisms and of relevant case law it provides the book is also highly relevant to academics and practitioners Monique Hazelhorst is Judicial Assistant at the Supreme Court of the Netherlands She studied Law and Legal Research at Utrecht University and holds a Ph D in Law from the Erasmus School of Law at Erasmus University Rotterdam *Jurisdiction and Enforcement of Judgments in Europe*, 1985 **EU Principles on Jurisdiction and Recognition and Enforcement of Judgments in Civil and Commercial Matters** Jannet A.

Pontier, Edwige Burg, 2004 For international lawyers the European rules on jurisdiction and recognition and enforcement of judgments in civil and commercial matters are of great practical importance Since March 2002 these rules have been laid down in an EU Regulation 44/2001 which essentially replaced the 1968 Brussels Convention The preliminary considerations to the Regulation imply that the decisions in which the Court of Justice of the EC has interpreted the Brussels Convention remain relevant for the interpretation of the Regulation Hence in order to have a thorough understanding of the Regulation an in depth knowledge of the EC Court s case law regarding the Brussels Convention is imperative The present study is based on an analysis of more than one hundred decisions that the Court has delivered under the Brussels Convention It appears that the significance of the Court s case law lies not only in the final outcome of these decisions but also in the principles that the Court consistently refers to in arriving at its decisions The authors piece together the system of principles

that has become apparent in the Court's reasoning. An understanding of this system not only sheds light on how and why the Court has reached its past decisions but it also enables lawyers to understand the confines within which the Court's argumentation is likely to take place in future cases under the Regulation. A publication which focuses on the principles used by the Court to justify its decisions in this particular area of law has been lacking. This book aims to fill that gap. Its value extends beyond the academic realm and into the field of legal practice.

Recognition and Enforcement of Judgments in Civil and Commercial Matters Anselmo Reyes, 2019-09-19. This collection offers a study of the regimes for the recognition and enforcement of foreign commercial judgments in 15 Asian jurisdictions: mainland China, Hong Kong, Taiwan, Japan, Korea, Malaysia, Singapore, Thailand, Vietnam, Cambodia, Myanmar, the Philippines, Indonesia, Sri Lanka, and India. For practising lawyers, the book is intended as a practical guide to current law and procedures for enforcing judgments in the selected jurisdictions. However, it does not stop at describing current law and practice. Of interest to academics and students, it also analyses the common principles of the enforcement regimes across the jurisdictions and identifies what should be regarded as the norm for enforcement in Asian countries for the purpose of attracting foreign direct investment and catalysing rapid economic development. In light of the common principles identified, the book explores how laws in Asia may generally be improved to enable judgments to be more readily enforced while ensuring that legitimate concerns over indirect jurisdiction, due process, and domestic public policy are respected and addressed. With this in mind, the book discusses the potential impact that the adoption of the 2005 Hague Convention on Choice of Court Agreements might have on Asian jurisdictions; it also considers the potential impact of the convention for the enforcement of judgments in civil and commercial matters presently being drafted by the Hague Conference on Private International Law. This timely book argues that it is imperative to adopt a uniform system for the recognition and enforcement of judgments throughout Asia if there is to be traction for the enhanced cross-border commerce that is expected to result from endeavours such as the ASEAN Economic Community (AEC), the Belt and Road Initiative (BRI), CPTPP (also known as TPP 11), and RCEP.

Cross-border Enforcement of Debts in the European Union, Default Judgments, Summary Judgments and Orders for Payment Carla

Crifò, 2009-01-01. Jacket.

Diversity of Enforcement Titles in the EU Vesna Rijavec, Wendy Kennett, Tomaž Keresteš, Tjaša Ivanc, 2023-12-30. This book examines the diversity of enforcement titles in cross-border debt collection, focusing on the types, structure, contents, and effects of enforcement titles. It offers a comprehensive overview of judgments, court settlements, and authentic instruments from a variety of EU Member States. It primarily employs the comparative legal method to draw conclusions on commonalities and differences, as well as prospects for future approximation of laws. The premise of the research is rooted in the finding that national authorities of EU Member States continue to treat enforcement titles from other Member States with reservations and mistrust, despite being committed to the principle of mutual trust. The book identifies the issues of mistrust stemming from the diversity of enforcement titles. The research is based on a rich

database of national reports compiled during the course of several large scale EU Justice Projects Divided into five parts the book offers first some general considerations and presents attempts at a systemisation of enforcement titles The following parts are then devoted to more specialised approaches toward the different types of enforcement titles However the connecting line between all parts of the book are the considerations of cross border enforcement in the EU and in a limited manner with third States Herein research also addresses critical factors regarding the free movement of judgments in the EU including those of *lis pendens* and related actions This book provides a valuable contribution to the Theory of European Civil Procedure Since it is based on a comparative approach and employs both empirical and doctrinal viewpoints it should also greatly benefit practitioners involved in cross border dispute resolution Overall the findings should be of interest to a broad audience including policymakers judges practitioners and scholars

Effective Enforcement of EU Labour Law Zane Rasnaca, Aristeia Koukiadaki, Niklas Bruun, Klaus Lörcher, 2022-08-11 This book by the ETUI Transnational Trade Union Rights Expert Network analyses enforcement as a key element making EU labour law effective or ineffective Enforcement is the key ingredient that makes rights effective and ensures compliance It can make or break a legal system Despite this enforcement of EU labour law has received little scholarly attention in recent decades and has rarely been examined in a comprehensive way This book aims to fill this gap Intended for academics and practitioners alike the book adopts a threefold approach to examine this issue First of all it explores the idea of effective enforcement and sets out the wider context in which EU labour law enforcement takes place Secondly it analyses how enforcement operates in particular areas including non discrimination health and safety information and consultation rights and the rights of migrating workers Thirdly it critically assesses the role of specific actors in particular collective actors like trade unions as well as whistle blowers and the European Labour Authority and settings public procurement economic and monetary policy regulated by EU law Drawing on the insights produced by these analyses the book concludes by proposing a comprehensive Draft for a Model Directive on Effective Enforcement of EU Labour Law as an inspiration for policy development and scholarly debate in this area

EU Principles on Jurisdiction and Recognition and Enforcement of Judgments in Civil and Commercial Matters Jannet A.

Pontier, Edwige Burg, 2011-01-18 The present book offers the reader insight into how the Court of Justice of the European Communities justifies its interpretations of the European legal rules on international jurisdiction and the recognition and enforcement of judgments in civil and commercial matters Our examination of the more than one hundred decisions which the Court has delivered under the 1968 Brussels Convention shows that the Court uses the principles which in its opinion underlie the explicit rules as reasons to justify its decisions These principles are described in the book and it is shown how they relate to each other The system of principles that has been identified in this study forms an important part of the Brussels Convention's legacy for the new Regulation No 44/2001 which replaced the Convention on March 1 2002 It constitutes a catalogue of arguments that will be employed by the Court to justify its interpretation of the provisions of the

new regulation As such this book will be of great value to practitioners in international law as well as to academics and students alike Jannet A Pontier Ph D Edwige Burg Ph D Professor of Law Lecturer and researcher Department of Private International Law Department of Private International Law Senior Research Associate at the Research Associate at the Amsterdam Institute for Private Law Amsterdam Institute for Private Law University of Amsterdam University of Amsterdam Amsterdam The Netherlands January 2004 VII TABLE OF CONTENTS *Procedures to Enforce Foreign Judgments* Paul J. Omar, 2017-11-22 This title was first published in 2002 Within Europe and beyond foreign judgement enforcement is now an essential component for the development of international commerce This indispensable volume traces and analyzes steps and procedures for the enforcement of foreign judgements in national courts including summarizing the principles which are the preconditions for that enforcement International Bank and Other Guarantees Handbook Yann Aubin, Louis de Longeaux, Jean-Claude Vecchiato, 2016-04-24 Familiarity with guarantees and how they function under various national jurisdictions are essential for principals guarantors and beneficiaries of international contracts This enormously useful handbook provides a practical overview of the guarantee regimes in twenty eight European countries with country by country contributions from regional expert practitioners and academics For easy comparison each country report follows the same structure from preliminary discussion on the provisions of a guarantee to its negotiation drafting and enforcement Focusing on specific issues to consider at every stage each chapter provides detailed information and guidance on such aspects as the following who can issue guarantees limitations as to the type of obligations which may be subject to a guarantee issues relating to the protection of the contracting parties formal requirements which need to be complied with stamp duties or other tax payable presence of implied terms legal framework applicable to joint and several obligations modification of the situation conditions for release and actions to be taken to ensure a valid release opening of bankruptcy proceedings against the principal court enforcement and incorporation of uniform rules Each chapter includes references and model guarantee forms that readers can use to draft their own documents Invaluable to corporate counsel and law firms with an international practice this peerless handbook will prove the first order of business in trade negotiations across Europe among European nations themselves as well as with their global partners **The Implementation and Enforcement of European Union Law in Small Member States** Ivan Sammut, Jelena Agranovska, 2021-03-11 The objective of this book is to examine how the legal order of Malta the EU s smallest Member State manages to cope with the obligations of the EU s *acquis communautaire* As far as the legal obligations are concerned size does not matter Smaller Member States have the same obligations as the largest yet they have to meet these same obligations with very fewer resources This book examines how the Maltese legal system manages to fulfil its obligations both in terms of the supremacy of EU law as well as how the substantive EU law is transposed and implemented It also explores how Maltese courts look at EU law and how they manage or not manage to enforce it within the context of national law It can serve as a model to

demonstrate how EU law is being implemented in the smallest Member State and can serve as a basis to study the effectiveness of EU law into the domestic law of its Member States in general

Research Handbook on Legal Aspects of Brexit Adam Łazowski, Adam Cygan, 2022-11-18 Illustrating the legacy of Brexit this timely Research Handbook provides a comprehensive and coherent analysis of not only the Brexit process within the UK but also what it means for both the UK and the EU within the framework of their future relationship

Human Rights in the Council of Europe and the European Union Steven Greer, Janneke Gerards, Rose Slowe, 2018-03-29 Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms

Defending Checks and Balances in EU Member States Armin von Bogdandy, Piotr Bogdanowicz, Iris Canor, Christoph Grabenwarter, Maciej Taborowski, Matthias Schmidt, 2021-01-05 This open access book deals with Article 7 TEU measures court proceedings financial sanctions and the EU Rule of Law Framework to protect EU values with a particular focus on checks and balances in EU Member States It analyses substantive standards powers procedures as well as the consequences and implications of the various instruments It combines the analysis of the European level be it the EU or the Council of Europe with that of the national level in particular in Hungary and Poland The LM judgment of the European Court of Justice is made subject to detailed scrutiny

Remedies Concerning Enforcement of Foreign Judgements Vesna Rijavec, Wendy Kennett, Tomaž Keresteš, Tjaša Ivanc, 2018-09-14 Brussels I Recast Regulation No 1215/2012 on the recognition and enforcement of judgments in civil and commercial matters is intended to simplify and expedite cross border enforcement of debts However some existing issues remain unresolved and new ones have already been identified since the Regulation entered into force in 2015 This collection of expert essays the first book to focus systematically and comprehensively on the area of remedies in the light of Brussels I Recast offers detailed analyses of inherent problems and includes practical hypothetical cases illustrating major issues and how they may be resolved The aspects covered by the contributors all well known academics lawyers and judges from different EU Member States include the following grounds for refusal of recognition and enforcement certification of enforceability and timely service of the certificate adaptation of enforcement measures that are determined in the judgment but are not known in the Member State of enforcement effect of requesting a translation of the judgment financial implications of remedies and provisional measures and their role in a timely protection of rights Because the success of Brussels I Recast depends on a very unpredictable implementation into national systems the extent to which national barriers represent obstacles to fair and efficient judicial protection is thoroughly examined A very useful concluding chapter presents practical cases highlighting the most important as well as problematic issues concerning enforcement of foreign judgments The in depth analyses conducted by the contributors clearly define serious obstacles and propose solutions that will lead to better implementation of Brussels I Recast better protection of party's rights and further harmonisation in this field of civil justice This book is sure to be of exceptional value to counsel for multinational enterprises EU and Member State legislators enforcement agencies and

academics worldwide **New Directions in the Effective Enforcement of EU Law and Policy** Sara Drake, Melanie Smith, 2016-04-29 The EU is faced with the perpetual challenge of guaranteeing effective enforcement of its law and policies This book brings together leading EU scholars in law politics and regulation to explore the wealth of new legal and regulatory strategies practices and actors that are emerging to complement the classic avenues of central and decentralized enforcement The contributors evaluate the traditional dual vigilance framework of enforcement before examining network ed enforcement from theoretical empirical and legal perspectives They assess innovations in key EU policy fields such as the environment consumer protection competition freedom security and justice and economic governance This multi disciplinary book will be of use to students and academics in law political science regulation and public policy It will also interest policy makers in EU institutions national administrations and courts engaged in the implementation and enforcement of EU law and policy Dispute Resolution in China, Europe and World Lei Chen, André Janssen, 2020-04-11 This book brings together articles from leading experts in the field of international dispute resolution The main focus is on the situation in Asia though the European perspective also plays an important part Accordingly the focus on the Asian dispute resolution market with a distinctly American and European touch is one of the book s most unique features The dispute resolution market is rapidly transforming and dispute resolution law is changing with it especially in Asia This book highlights recent advances and outlines future trends in this area Emphasis is especially placed on International Commercial Arbitration Law on the one hand and on International Investment Arbitration Law on the other Two dedicated sections address these two topics while another is dedicated to a quite new phenomenon in the field of international dispute resolution the emergence of International Commercial Courts not only in Asia but also in other regions of the world e g in the Netherlands This raises a host of interesting legal questions which the book addresses The book s final section investigates general trends in dispute resolution e g the rising cost problem in arbitration in general Civil Judgment Recognition and the Integration of Multiple-state Associations Robert C. Casad, 1981 This book represents a prodigious study of judgment recognition practices in the Central American states and is for that reason alone an important and needed contribution to comparative law Distinguished legal scholar Robert C Casad details the history and present arrangements in Central America compares the Central American system to interstate judgment recognition arrangements in the U S and the European Economic Community and considers important suggestions for reform in Central America This book brings together for the first time in one source translated into English the texts of the relevant code provisions of each of the six Central American countries as well as the text of the Bustamante Code the multi lateral treaty and the European Economic Community judgment recognition convention

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