

## HOW TO ENFORCE A JUDGMENT IN BELGIUM

### **(A) What is the applicable law?**

- (a) Domestic judgments: Judicial code
- (b) Foreign judgments: Regulation (EU) 1215/2012 (Recast Brussels Regulation) and subsidiary

### **(B) What international conventions and agreements is your jurisdiction a party to?**

- Brussels Jurisdiction Convention 1968
- Lugano Convention (EFTA)
- Other bilateral treaties

### **(C) What types of judgments in commercial matters are enforceable?**

All judgements are enforceable, in principle even provisionally enforceable.

### **General outlines:**

### **(D) Are the lawyers and procurator needed?**

In principle a lawyer is not needed unless a collection of undisputed debts is initiated; a bailiff suffices.

### **(E) Is a security for costs needed?**

No, this is not needed.

### **(F) Which court is the competent court?**

Judge of seizures.

### **(G) Can the debtor oppose to the enforcement?**

The debtor can ask the judge for the verdict not to be provisionally enforceable, but this is rarely adopted. The debtor can oppose the enforcement (not the enforceability) at the judge of seizures.

### **Measures to secure the effectiveness of enforcement:**

### **(H) Is it possible to obtain an automatic freezing order of bank accounts?**

Yes, this is called a seizure with a third party.

### **(I) How do you secure the effectiveness of an immovable property?**

The judgment or the mortgage registration concerning an immovable property needs to be registered at the 'Office of Legal Certainty'.

### **(J) Is there a Bailiff in your jurisdiction?**

Yes.

**(K) Can one freely choose the person of the bailiff?**

In principle yes, unless in some cases where a bailiff is appointed by the court (in most cases when you are granted free judicial proceedings). A bailiff only has territorial jurisdiction in the district where he has been appointed however.

**(L) How much does this cost?**

The bailiff will invoice his costs to the attorney or to the client. The costs made in light of a judicial assignment are provided for by law, but the bailiff can choose his tariffs when executing a non-judicial assignment (e.g., amicable recovery or making findings).

The costs must be borne by the debtor in principle (if he can be found and the costs can be recovered of course).

**(M) In which field with they work?**

They have a variety of competences: they serve writs of summons and judgements, can lay seizures, can be used to make findings which can be used as evidence in court, and which are extremely hard to disprove.

Another competence they have is the collection of undisputed commercial debts, which is a procedure in Belgium which can grant you an executable title without having to go to court.

**(N) How do they work?**

The bailiff is allowed to enter a person's home if he has an executable title. When the debtor does not give permission, he needs to be accompanied by a police officer. A locksmith can be used as well in case of forced entry. Locked furniture can also be opened, but the bailiff has an obligation to not make any unnecessary damage to the property.

The goods can be sold at a public place, online or even amicably (when the debtor sells the property himself and the profits go to the bailiff).

**(O) Is the judgment creditor entitled to interest? If so, on what basis is it calculated?**

Yes, but the rate depends on the case at hand and what the judge decides. The legal interest rate is 1.50% in 2022, but the interest rate of for example commercial transactions is 8%.

**(P) The digital bailiff**

The bailiff has an option to serve documents digitally to an e-mail address which the counterparty chose for the digital serving of documents, or which he knows is an e-mail address used by the counterparty. This happens through a secure platform. In order for the serving to be done correctly, the receiving party needs to accept the document by using its digital passport (or that of its director)

within 24 hours of the sending of the document. If this does not happen within this time period or if the receiving party explicitly refuses, the serving of the document will be deemed not to have happened and the bailiff will have to serve the document in the conventional way.

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