Outlines of Debt Collection in Europe

3rd Edition

© 2020 Dr. Thomas Voller

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Foreword to the 3rd edition

This booklet is the third collection of questionnaires from the members of EuroCollectNet describing the basic elements of debt recovery in their countries. This time we have added also our partners from Australia and Brazil as an example of our worldwide connections. We are in constant contact with non-European networks, law firms and lawyers to be able to collect B2B claims all over the world.

In this edition you may also find the latest development in European law regarding the enforceability of judgment in other European member states according to EU Directive No. 1215/2012, which came into force on 10 January 2015. Practically nothing is required to enforce a European judgment in other European member states.

Besides that, the European Union offers the possibility to pledge bank accounts in other European member states as long as it is cross border (exemptions: England and Denmark). This enables a creditor to pledge the accounts of a debtor in another European member state without judgment, simply based on an attachment order in his own country. It is a provisional security which must be followed by an ordinary court procedure. The court may ask for a financial security to be paid to the court to prevent damages from the debtor in case the claim was not justified. Details in EU Directive no. 655/2014.

Today the European Payment Order (EPO) based on EU Directive no. 1896/2006 is daily business for many lawyers and also for credit managers and legal departments in companies. The way of applying it in your country or in the country of the debtor works perfectly in all languages. The different courts are well-trained and normally the creditor gets an enforceable title within 30 days from service of the EPO to the debtor.

EuroCollectNet is a network of independent lawyers having the goal of pursuing cross-border claims as efficiently and quickly as possible with the maximum cost savings for the clients. There is always only one lawyer per country in Europe.

This booklet describes the requirements applicable in various legal jurisdictions before a lawyer is able to start a case. In each chapter the rules governing out-of-court settlements are set out. So are other important criteria, such as the Statute of Limitation relevant in each country in which the claim is made, the statutory interest rate and the prescribed rules for court action. The latter vary from country to country in Europe, depending, for instance, on whether it is necessary to have a claim translated or instruct a court representative. Court costs as well as the procedures for instituting a valid court case vary and there are numerous other differences. You will find more details on the website www.EuroCollectNet.com under Publications, such as the costs for the EPO based on various case values.

This booklet is aimed at companies' sales and credit departments, in-house legal departments as well as management personnel planning to expand operations into new European markets. It serves to evaluate risks in case contractual problems arise or where there is a complete failure of the contract or where it becomes necessary to pursue a claim with the assistance of a lawyer or ultimately through the courts.

The answers in this questionnaire are not the definitive explanation of the law or the applicable legal procedures. It is merely an introduction and the booklet provides a useful outline regarding costs and other issues.

Each member who has signed for his/ her country in this booklet is responsible for the content of the answers of the questionnaire. At the end of the answers you can see the name and the details of the author. You find them on our website and you may contact them for more details or for assistance.

Frankfurt am Main, January 1st, 2020

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AUSTRIA

1. Necessary documents for the lawyer to start the case

- Contract — No [X] Yes [ ]
- Purchase order — No [X] Yes [ ]
- Acknowledgment of purchase order — No [X] Yes [ ]
- Proof of delivery — No [X] Yes [ ]
- Invoice — No [ ] Yes [X]
- General terms and conditions — No [X] Yes [ ]
- Exchanges of correspondence — No [X] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [X]
- Other documents? — No [X] Yes [ ]

The documents mentioned above are mostly not necessary to start the case, yet having them at hand is recommendable since they are often needed to check the claim and further on to prove the claim in case it gets disputed.

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [X] Yes [ ]
  If "Yes": a special form?

  However the presentation can be demanded.
- Format of the demand letter: any regulation from your bar? — No [X] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [X] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [X]
  If "Yes": which?

  The costs of the dunning letter by a lawyer can be demanded if provided for in the contract but as soon as the claim is asserted in court, the costs of a bare dunning letter must not be demanded alongside the costs of the action.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [ ] Yes [X]
  If "Yes": any consequences?

  If a payment becomes due upon request, the court may penalize the claimant in costs if there was no dunning letter and the debtor paid on first occasion.

3. <u>Statute of limitations:</u>

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [X] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

The standard statute of limitations for claims from transportation contracts is pursuant the CMR 1 year.

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [X] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

if the debtor is not responsible for the delay, otherwise

(9.2-points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [X]
  If "Yes": any form?

  The client has to authorize the attorney concretely to institute legal actions, to represent him in and before courts, to settle disputes, file appeals, to effect execution as well as to receive money or money's worth.

  Before court and administrative authority, lawyers do not have to present a letter of attorney. Referring to the given authorization suffices.

- List of the proceedings which are available (with their names in your language and English translation) and <u>briefly</u> develop such proceedings.

  - *Mahnverfahren (payment order): This instrument is available only for pecuniary claims up to EUR 75 000. The court delivers a payment order, against which the debtor can appeal within 4 weeks as from the day of notification. If the debtor opposes, the normal proceeding for taking evidence is initiated, otherwise the payment order gets legally binding and the creditor has an execution title. This proceeding is quite fast.*
  - *Europäisches Mahnverfahren (European payment order): Similar procedure to the national payment order but for cross-border disputes. There is no limit to the amount in dispute and all claims are lodged at the "Bezirksgericht für Handelssachen" in Vienna. The debtor has 30 days to file an opposition, if he does, the claimant has to designate the court in charge of conducting a normal civil suit.*
  - *Europäisches Bagatellverfahren (European small claims procedure): For cross-border disputes concerning pecuniary claims up to EUR 5 000. A solely written procedure is possible. The judgment is enforceable before entering into legal force.*
  - *Nationales Zivilverfahren (national civil proceedings): If the claimed amount exceeds EUR 75 000 the creditor has to lodge a claim and the debtor a defence stating after which a hearing in front of the court will be held. Such proceedings can be quite expensive, depending on the number of witnesses, possible expert's report, and due to an approximate duration of 12 to 18 months.*
  - *Wechselmandatsverfahren (proceedings on a bill of exchange): If the creditor is in possession of a bill of exchange, he can file a bill of exchange action. The court delivers a payment order, against which the debtor can appeal within 14 days as from the day of notification. If the debtor appeals, the normal proceeding for taking evidence is initiated,*

otherwise the payment order gets legally binding and the creditor has an execution title. This proceeding is quite fast.

Out of court proceeding:

- *Vollstreckbarer Notariatsakt (enforceable notarial deed): As far as the debtor agrees, every kind of dispute can be settled before a notary as well. In this case the notary certifies a deed, which contains e.g. an instalment agreement. This deed is directly enforceable.*

- List of the names of the courts, in your language and in English translation, which will hear B2B claims.

  Bezirksgerichte (in Handelssachen) - District Courts (sitting in commercial matters);

  Landesgerichte (in Handelssachen) - Circuit Courts (sitting in commercial matters) for claims over EUR 15.000.

  In Vienna, there is an autonomous commercial court and a district court for commercial matters.

- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]

  Usually a conversion into EUR is necessary to calculate the court costs on basis of the amount in dispute.

- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [X]

- Do you need a court representative? Yes [X] No [X]

  Yes, if the amount in dispute is higher than EUR 5 000.

- Do you need to post a bond when bringing proceedings? Yes [X] No [X]

  Yes, on demand for non EEA-creditors, except e.g. proceedings on a bill of exchange.

  Oversimplified, the defendant can demand – where not excluded by international law – the post of a bond for the costs of the proceedings if the foreign claimant has no domicile in Austria, is not from the EEA, has no sufficient immovable property in Austria and if a ruling could not be enforced in the land of habitual residence. Yet there is still the possibility to affirm on oath the inability to pay the security.

- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiff's costs for serving the complaint, if any; court representative, etc.)

  The court costs for lodging a claim are dependent on the amount in dispute and might range from EUR 23 up to 1.2% of the amount in dispute plus EUR 3 488. They are unlimited, the higher the amount in dispute, the higher the court costs, e.g.

  - *amount in dispute EUR 10 000 court costs EUR 743*
  - *amount in dispute EUR 100 000 court costs EUR 2 919*
  - *amount in dispute EUR 500 000 court costs EUR 9 488*

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [X] No [ ]

- Are written statements (affidavit) admitted? Yes [X] No [X]

  Basically, there is a priority of hearing witnesses. Only where not possible, written statements are read exceptionally.

- What documents are requested to proceed?

Basically, the documents listed under question 1. above if available. In general, Austrian judges are free in their decision to regard something as proven, documents can therefore be replaced by other evidence. However, they have to justify their conclusion.

- Any formalities to fulfill for bringing an action?

  Payment of the above costs and lodgeing of the claim. The application for the European payment order has to be lodged in the according form. The (national) claim itself has to meet the requirements set out in § 226 of the Austrian Code of Civil Procedure. It therefore has to contain:

  - *the name of the competent court*
  - *the name of the claimant*
  - *the name of the defendant*
  - *name of the attorney*
  - *circumstances in relation to the jurisdiction*
  - *amount in dispute*
  - *cause of action*
  - *specific claim*

  Not mandatory but advisable:

  - *circumstances in relation to the cause*
  - *evidence offers*

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [X] No [ ]

- Are Discovery proceedings allowed? Yes [ ] No [X]

  Proceedings for the preservation of evidence are available, though.

- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [X] No [ ]
  If "Yes": describe the rules:

  Yes, if they are listed according to the Austrian attorneys tariff system and necessary for appropriate enforcement/defence.

- Does the court have to decide on such reimbursement or is it automatic? Yes [ ] No [X]

  The court has to decide.

- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [X] No [ ]
  If "Yes": describe the rules:

  The court has to decide on that. The reimbursement depends on the ratio of prevailing. In case of a completely won case, the necessary and appropriate lawyers' fees listed according to the tariff will be reimbursed. In case of partial winning, the court determines the lawyer's fee in proportion to the ratio of prevailing.

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [X] No [ ]
  If "Yes". How does it work?

  If the claim is rejected the claimant does not get his own costs reimbursed and has to pay the necessary costs of the defendant determined by the Austrian attorneys tariff.

- What is the standard time frame for obtaining a judgment? ____ Months
  - *For «Mahnklage» (application for payment order): 8 weeks (not disputed)*
  - *For «Klage und Versäumungsurteil» (claim and default judgment): 3 months*
  - *For «Klage»: depending on the number of witnesses and possible expert's report 12 to 18 months*
- What is the time frame for lodging a recourse against the judgment rendered by the court?

  Basically, 4 weeks from notification, except for proceedings on a bill of exchange, where an objection has to be lodged within 14 days from notification, no extension possible.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  Basically, the judgment has to be final. Exceptions are e.g. proceedings on a bill of exchange, extraordinary further appeal or titles from the European small claims procedure.

  Condition is the writ of execution.

  There is no necessity of a security.
- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  The authorized court to enforce judgments is the locally competent district court (Bezirksgericht). The bailiff (Gerichtsvollzieher) intervenes as enforcement organ.
- Costs of enforcement?

  The costs depend on the demanded amount as well as the type of enforcement taken and might range from EUR 18 up to up to 0.28% of the demanded amount exceeding EUR 70 000 plus EUR 412. They are unlimited, the higher the demanded amount, the higher the court costs, e.g. for enforcement on immovable property
  - *amount in dispute EUR 10 000 court costs EUR 256*
  - *amount in dispute EUR 100 000 court costs EUR 496*
  - *amount in dispute EUR 500 000 court costs EUR 1 616*

  Depending on the type of enforcement, there might be enforcement fees (ranging from EUR 7.50 to EUR 30.--), reimbursement for the bailiff (ranging from EUR 0.70 to a graded percentage of payment) and refund of transportation costs (EUR 1.10 to EUR 3.60).

  In case of the registration of a coercive lien, a fee of 1.2% of the demanded amount and the legal costs is to be paid.

  The costs are to be repaid by the debtor, so they are, on the creditor's part, only an advance of funds (provided that the debtor can repay such costs).
- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  There is a differentiation between natural and legal persons:

  Basically, all the company's assets can be seized, unless otherwise specified by the law. As an example, the law states that means and goods which are necessary to continue operations cannot be taken.

  The income of a natural person can solely be executed above the subsistence level. Furthermore, everyday necessities and some personal belongings cannot be seized.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  A formal declaration of enforceability in Austria is required (exequatur procedure).

  - *The judgment given in the member state of origin must be enforceable in its country of origin.*
  - *There is no review of the substance of the foreign judgment.*
  - *Yet compliance with e.g. international jurisdiction, due process of law and ordre public is required as is reconcilability with earlier judgments between the parties.*

- What are the documents required?

  The judgment as well as the certification of enforceability (form) given in the member state of origin and certified translations are required.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The competent court to declare judgments enforceable is the locally competent district court (Bezirksgericht) where the debtor has his domicile.

  The same court as described under 6.2 is competent for enforcement.

- Costs?

  The court- and enforcement costs described under 6.3 apply.

- Time frame for obtaining recognition and enforcement from your courts?

  Approximately 1 to 3 months.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  A formal declaration of enforceability in Austria is no longer required.

  - *The judgment given in the member state of origin must be enforceable in its country of origin.*
  - *There is no review of the substance of the foreign judgment.*
  - *There are some grounds of refusal set out in the Brussels Ia Regulation, e.g. international jurisdiction, due process of law, ordre public and reconcilability with earlier judgments between the parties.*

- What are the documents required?

  The judgment as well as the certification of enforceability given in the member state of origin. If a translation is necessary, the applicant has to provide for a certified translation.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The certificate of enforceability is issued by the court of origin. A formal declaration of enforceability in Austria is no longer required.

The authorized court to enforce judgments in Austria is the locally competent district court (Bezirksgericht). The bailiff (Gerichtsvollzieher) intervenes as enforcement organ.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  A formal declaration of enforceability in Austria is required (exequatur procedure).

  - *The judgment given in the member state of origin must be enforceable in its country of origin.*
  - *There is no review of the substance of the foreign judgment.*
  - *Yet compliance with e.g. international jurisdiction, due process of law and ordre public is required as is reconcilability with earlier judgments between the parties.*

- What are the documents required?

  The judgment as well as the certification of enforceability given in the member state of origin and certified translations are required.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The competent court to declare judgments enforceable is the locally competent district court (Bezirksgericht) where the debtor has his domicile.

  The same court as described under 6.2 is competent for enforcement.

8. Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:

- Conditions and test?

  For judgments from non EU member states a formal declaration of enforceability in Austria (exequatur procedure) is required.

  - *The primary condition is guaranteed reciprocity of enforceability between Austria and the state of origin, e.g. by treaty. In absence of such an agreement, the chance that the writ of execution is granted is very low. The judgment must be enforceable in its country of origin.*
  - *Compliance with e.g. international jurisdiction, ordre public and due process of law.*
  - *There are some grounds of refusal set out in the Austrian Enforcement Act, e.g. if the action which should be enforced is prohibited or not enforceable due to Austrian law.*

- What are the documents required?

  The judgment and certified translations are required.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  The competent court to declare judgments enforceable is the locally competent district court (Bezirksgericht) where the debtor has his domicile.

  The same court as described under 6.2 is competent for enforcement.

- Costs?

  The court- and enforcement costs described under 6.3 apply.

- Time frame for obtaining recognition and enforcement from your courts?

  Approximately 1 to 3 months.

9. <u>Are there any special remarks on the court system in your country?</u>

There is no jury system in Austria (like in the US) for commercial cases.

Due to the system of electronic legal transactions, there is kind of an automatic work-flow, which makes the standard proceedings (e.g. Mahnklage, Klage) quite fast.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Assigning a claim is generally possible. Claims that are connected very closely to the person of the entitled party cannot be subject to assignment, though. Some restrictions exist e.g. in parts of the tenancy law. Also the cession needs a title that justifies it, e.g. a purchase contract.

- What are the conditions and formalities for assigning a claim?

  Usually, there are no formalities to comply with when transferring a claim. However, the legal act that is the reason for the transfer may be subject to formalities (e.g. gift, transferring right in rem). It is to keep in mind that security assignments require specific acts of publicity (e.g. notifying the garnishee).

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  Generally, the claim remains unchanged and connected securities persist. The rights between assignor and assignee are governed by their legal basis (e.g. contract). If the cession is based on a transaction for remuneration, the assignor has to warrant the claim exists and is recoverable. By default, liability for defects is limited to the amount received in exchange for assigning the claim, yet determining something different is possible.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  A cession does not require the debtor's approval or knowledge. In this relationship the claim remains unchanged as well, therefore the debtor can invoke all objections he had against the assignor against the assignee. Before notification of the cession, the debtor can make discharging payments to the assignor.

  Between businessmen, an effective contractual exclusion of cession concerning monetary claims is not possible (but a breach could lead to damages). Concerning consumers, the prevailing opinion is that a cession can contractually be made impossible.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  Usually, the assignment of claim cannot be opposed by third parties. The buyer that gets the claim ceded first is the possessing assignee. The others generally have to resort to compensation for damages. In case of obligees at disadvantage, a contestation of gifts and

transactions by reason of dissipation of property seems possible under the restrictions of the Contestation Act (Anfechtungsordnung), though.

October 29, 2019

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1. Necessary documents for the lawyer to start the case

- Contract — No [X] Yes [ ]
- Purchase order — No [x] Yes [ ]
- Acknowledgment of purchase order — No [x] Yes [ ]
- Proof of delivery — No [x] Yes [ ]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [x] Yes [ ]

  General terms and conditions are not mandatory, however, for example, if you want to claim conventional interests and/or a penalty clause, it is recommended to include this in the general terms and conditions.
- Exchanges of correspondence — No [x] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [x] Yes [ ]
- Other documents? — No [x] Yes [ ]

  Those documents checked with "no" are not mandatory, but can be useful to prove the claims in court.

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [ ] Yes [x]
  If "Yes". Which regulation?

  For B2C out of court collection, the law on the amicable collection of consumer debts of December 20th, 2002, lays down certain obligations. These requirements are stated in article 6. In addition to the regular obligations, a standard phrase ("Deze brief betreft een minnelijke invordering en geen gerechtelijke invordering (dagvaarding voor de rechtbank of beslag)"/" Cette lettre concerne un recouvrement amiable et non un recouvrement judiciaire (assignation au tribunal ou saisie)"/ "This letter concerns an amicable recovery and no judicial recovery (court summons or seizure)") is required when the collection is done by a lawyer, a ministerial officer or a judicial officer.
- Has back-up documentation to be attached to the demand letter? — No [x] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?

  The Creditor can be entitled to recovery costs or compensation as agreed in the contract between the Creditor and the debtor.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [x] Yes [ ]
  If "Yes": any consequences?

  It is not obligatory to start by out of court collection, however is recommended to do this.

3. <u>Statute of limitations:</u>

What is the standard statute of limitations for B2B claims?

Years: 1 [x] 2 [ ] 3 [x] 4 [ ] 5 [x] 6 [ ] 10 [x] 15 [ ] 30 [ ]

There are several statutes of limitations, depending on the context:

- *10 years if there is a contract;*
- *5 years if there is no contract or for claims about the delivery of water, gas, electricity or electronic communication services;*
- *3 years for insurance claims;*
- *1 year in limited cases (article 2272 of the Civil Code).*

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [x] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [x] Yes [ ]
  If "Yes": any form?
- List of the proceedings which are available (with their names in your language and English translation) and <u>briefly</u> develop such proceedings.

  <u>Dagvaarding ten gronde (summon on the merits)</u>: Summon by bailiff, court date for the introduction of the case. If there is no discussion, a judgement will follow a few weeks after the initial court date. If there is a discussion, the parties will need to make written conclusions. The pleading will follow after the written conclusions. The date of this will depend on the availability of the court. After the judgement, it is possible to appeal the judgement. If no appeal is made, the execution of the judgement will be done by the bailiff.

  <u>Europees betalingsbevelprocedure (European order for payment procedure)</u>: The creditor needs to file an application form after which the court will examine the application. When the application is accepted the court issues a European order for payment. When the debtor opposes the decision, the same procedure as above has to be followed. When no opposition is made, the debtor must proceed with payment of the debt.

  <u>Summiere rechtspleging om betaling te bevelen (summary order for payment procedure)</u>: When the claim is made for the payment of a liquidated debt of no more than €1860, it is possible to use the summary order for payment procedure, if the claim falls within the competence of the Justice of Peace (Vrederechter/Justice de Paix). This will typically not be possible in a B2B relationship. The assistance of a lawyer is required in this procedure. Within 15 days, the court has to take a decision.

  <u>Invordering van onbetwiste geldschulden (recovery of uncontested monetary debts)</u>: In a B2B relation, any undisputed debt which is the subject of a sum of money and which is established and due on the day of the reminder, irrespective of its amount, increased by the surcharges provided for by law and the collection costs and, where applicable and up to a maximum of 10% of the principal amount of the debt, all interest and penalty clauses, in the name of and for the account of the creditor, may be collected by the bailiff at the request of the creditor's lawyer.

- List of the names of the courts, in your language and in English translation, which will hear B2B claims.

  In general:

  - *Ondernemingsrechtbank (Court of commerce)*
  - *Hof van Beroep (Court of Appeal)*

  In specific cases:

  - *Vredegerecht (Justice of Peace)*
  - *Rechtbank van eerste aanleg (Court of first instance)*

- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]

- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [x]

- Do you need a court representative? Yes [ ] No [x]

  As mentioned above, it is required to have a lawyer intervene when use of the summary order for payment procedure is made.

- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]

- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  The summon by the bailiff will cost approximately 200-450 Euros, but this will depend on the parties and the amount of the claim. Besides the costs for the summon by the bailiff, payment of 20 Euros is due by the instigator of the proceedings for the second line legal aid fund.

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [x]

  It is possible to make sworn statements, but it is not as frequently used as in the US.

- Are written statements (affidavit) admitted? Yes [x] No [ ]

- What documents are requested to proceed?

  The needed documents will depend on the discussion before the court. Any element invoked to prove, or disprove, the debt must be substantiated with the appropriate documents.

- Any formalities to fulfill for bringing an action?

  When bringing an action, this needs to be done by a summon by the bailiff or by an application to appear before a court. In order to be done correctly, several requirements need to be fulfilled.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [ ] No [X]

  Documents in their original language are sufficient, however the court can ask the submitter to translate the documents on their own expense.

- Are Discovery proceedings allowed? Yes [ ] No [x]

- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [x] No [ ]
  If "Yes": describe the rules:

In general, the losing party has to pay the court costs and part of the lawyers' fees (procedural indemnity) of the winning party. These costs are defined in articles 1017 of the Judicial Code and the Royal Decree fixing the rate of the procedural indemnity of October 26th, 2007.

- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]

  Lawyers' fees are not reimbursed directly. However, the losing party needs to pay a compensation called 'procedural indemnity' This is a compensation for the costs of the lawyer. The amount of the compensation depends on the value of the claim.

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]

  As stated above, the losing party will have to pay the costs and lawyers' fees as described in articles 1017 of the Judicial Code and the Royal Decree fixing the rate of the procedural indemnity of October 26th, 2007.

- What is the standard time frame for obtaining a judgment?

  The time frame depends on whether or not the claim is disputed. For a default judgement, the time frame will be 4 to 6 weeks. For a case where the claim is disputed, the time frame for a judgement can be 6 to 18 months, depending on the workload of the court.

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  The time frame for lodging a recourse is, in general, one month after the service of the judgement by the bailiff. In order to avoid a seizure, or if already seized, to have it reversed, it is possible for the debtor to pay the claim provisionally by depositing the payment in the Deposit and Consignment Office, awaiting the outcome of the appeal or opposition.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  In general, a judgement can be enforced by the bailiff, even when the debtor can still appeal or already appealed the judgement.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  De gerechtsdeurwaarder: the bailiff

- Costs of enforcement?

  The costs of enforcement depend on the method of execution.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Articles 1408-1410 of the Civil Code stipulate the goods that cannot be seized. These goods include personal belongings, some basic goods (such as a bed, table, chair,…). These also stipulate which parts of the income or wages that are protected against enforcement.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  An exequatur procedure has to be completed before the foreign judgement can be executed.

- What are the documents required?

  The required documents are an expedition of the judgement, the service of the judgement to the debtor, the certificate referred to in article 54 of the Regulation and, when needed, a translation of the documents produced.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  De rechtbank van Eerst Aanleg (Court of First Instance) of the domicile of the defendant.

- Costs?

  The service of the judgement will cost 300-600 Euros, the court costs ('rolrechten/droit de mise au rôle') are 165 Euros and the deposit for the second line legal aid fund of 20 Euros needs to be made.

- Time frame for obtaining recognition and enforcement from your courts?

  The recognition will take 3 to 4 months. The time frame for the execution will depend on what needs to be done to execute the judgement.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  If the judgement is enforceable in another member state, the judgement is enforceable in Belgium. However, the debtor can make a substantiated request to the court to deny the execution of the judgement.

- What are the documents required?

  The needed documents are an expedition of the judgement, the certificate referred to in article 54 of the Regulation and, when needed, a translation of the judgement.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  De rechtbank van Eerst Aanleg (Court of First Instance) of the domicile of the defendant.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  If the judgement is enforceable in another member state, the judgement is enforceable in Belgium. However, the debtor can make a substantiated request to the court to deny the execution of the judgement.

- What are the documents required?

The required documents are an expedition of the judgement and a certificate issued by the court of authority where the judgement was given as stated in article 54 of the convention.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  De rechtbank van Eerst Aanleg (Court of First Instance) of the domicile of the defendant.

8. Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:

- Conditions and test?

  A judgement given outside of the above mentioned Regulations and convention, needs to follow the exequatur procedure, before it can be enforced in Belgium.

- What are the documents required?

  The needed documents are:

  - *a copy of the judgement;*
  - *where a judgment has been given in default of appearance, the original or a certified copy of the document which establishes that the defaulting party was served with the document instituting the proceedings or with an equivalent document in accordance with the law of the State where the judgment was given;*
  - *any document establishing that the judgment is enforceable and has been served in accordance with the law of the State in which it was given.*

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  De rechtbank van Eerst Aanleg (Court of First Instance) of the domicile of the defendant.

- Costs?

  The costs will depend on the origin of the judgement.

- Time frame for obtaining recognition and enforcement from your courts?

  The recognition will take 3 to 4 months. The time frame for the execution will depend on what needs to be done to execute the judgement.

9. Are there any special remarks on the court system in your country?

As already mentioned above, in Belgium it is possible to recover undisputed debts by the bailiff, with the same power of a regular execution, although there is no intervening by a court.

10. Assignment of claim:

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  It is possible for an assignor to assign a claim to an assignee. The assignment is a transfer of debt, the creditors' person changes.

- What are the conditions and formalities for assigning a claim?

  In order for the assignment to be invoked against the debtor, it is required for the assignee to inform the debtor of the assignment of the claim.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  By assigning the claim, the assignor loses the property of the claim and the assignee receives the property. This means the guarantees and rights relating to the claim are also transferred from the assignor to the assignee.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The assignment of the claim can only have an effect on the debtor after he received a notification of the assignment.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  Since the assignee has acquired the property of the claim, with all its rights, obligations and title, from the assignor, the assignee is responsible for all matters connected to and arising from the claim. This includes dealing with third parties.

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Croatia

1. Necessary documents for the lawyer to start the case

- Contract (If any) No [ ] Yes [x]
- Purchase order (If any) No [ ] Yes [x]
- Acknowledgment of purchase order (If any) No [ ] Yes [x]
- Proof of delivery(If any) No [ ] Yes [x]
- Invoice No [ ] Yes [x]
- General terms and conditions (If any) No [ ] Yes [x]
- Exchanges of correspondence (If any) No [ ] Yes [x]
- Know Your Customer checking (anti-money laundering regulations) No [ ] Yes [x]
- Other documents? No [ ] Yes [x]

  Open item list.

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? No [ ] Yes [x]
  If "Yes": a special form?

  No special form is required.
- Format of the demand letter: any regulation from your bar? No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? No [x] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? No [x] Yes [ ]
  If "Yes": which?
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? No [x] Yes [ ]
  If "Yes": any consequences?

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [x] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

Please note that the standard statute of limitations for B2B claims is three years, however, in case the creditor is entitled upon an enforcement deed, for example agreement between the creditor and the debtor in a form of notarial deed containing an enforcement clause against the debtor, the statute of limitations for initiation of enforcement proceeding based on such document is 10 years.

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [x] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the Croatian National Bank)

5. Court actions:

- Power of attorney? No [ ] Yes [x]
  If "Yes": any form?

  No form required.

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings.

  1. *Litigation proceeding (Croatian: parnični postupak)*

     The litigation proceeding in Croatia is started on the demand of a party (a lawsuit submitted at court of real and territorial jurisdiction). The party in the litigation proceeding can be a natural or legal person. The proceeding is divided into 2 main stages as follows:

     - *Preparations for the trial*
       - lawsuit, response to the lawsuit, examination of the lawsuit, submitting and suggesting evidence, a preparatory hearing on which the court decides which of the suggested evidence would be performed / presented, concluding preparations for the trial and scheduling the trial.
     - *Trial*
       - presenting the evidence and discussing the results of their presentation, announcing of the judgement.
     - *Appeal*
       - The parties can submit an appeal against a first instance verdict within 15 days of the day of delivery of the copy of the verdict. The appeal submitted in time prevents the verdict from becoming final in the part disputed by the appeal.

  2. *Payment order (Croatian: postupak izdavanja platnog naloga)*

     When the lawsuit relates to a due monetary claim, this claim shall be proven by a trustworthy document (Croatian: vjerodostojna isprava) enclosed with the lawsuit in the original or a notarized copy, and the court shall issue an order to the defendant to settle the claim (payment order).

     In a lawsuit seeking the issuance of a payment order, the plaintiff should specifically state the reasons why he proposes issuing the payment order, rather than proposing enforcement proceeding on the basis of trustworthy document (in this regard, please see below under 3.). If the court finds that the reasons given by the plaintiff do not justify his legal interest in filing a claim for payment order, he will dismiss the claim as inadmissible.

     It will be considered that there is a legal interest of the plaintiff in bringing an action for a payment order if the defendant is a person abroad or if the defendant has previously disputed the claim contained in a credible document.

     The payment order shall be issued without holding a hearing. In the payment order, the court shall state that the defendant is obliged to settle the claim in the lawsuit within

eight days, or in promissory note or cheque disputes within three days after the receipt of the payment order, or, within the same time limit, lodge an objection against the payment order. In case the objection is filed, the proceeding continues under the rules as explained above under 1.

3. *Enforcement proceeding on the basis of so-called trustworthy document (Croatian: Ovršni postupak na temelju vjerodostojne isprave)*

   Trustworthy documents are, e.g.:

   - *invoices,*
   - *bills of exchange and*
   - *cheques with the protest clause and*
   - *return invoices whenever that is required to establish a claim,*
   - *official documents,*
   - *excerpts from business books,*
   - *legalised private documents and documents regarded as official documents under special regulations,*
   - *calculation of interest.*

   Application for enforcement on the basis of a so-called trustworthy document shall be submitted by the enforcement creditor to a public notary with territorial jurisdiction according to the residence or registered office of the debtor. After the execution creditor submits the enforcement proposal (based on a trustworthy document) to the public notary, the public notary issued an enforcement order and submits it to the debtor. If the debtor lodges an objection against public notary's enforcement order, such objection delays the enforcement and the enforcement proceedings continue before the court in accordance with the rules described in the previous paragraph (litigation proceeding).

4. *Enforcement proceeding before the court on the basis of enforcement title documents*

   Enforcement title documents are:

   - *an enforceable court decision and an enforceable judicial settlement,*
   - *an enforceable arbitration award,*
   - *an enforceable decision rendered in the administrative procedure and an enforceable settlement reached in the administrative procedure if they are related to the satisfaction of a monetary obligation, unless provided otherwise by law,*
   - *an enforceable notarial decision and an enforceable notarial deed,*
   - *settlement reached in procedures before courts of honour with various chambers in the Republic of Croatia,*
   - *any other deed regulated as an enforcement title document by law (for example, final and enforceable judgement of a foreign court recognised in Croatia).*

   A creditor initiates these proceedings by submitting an application for enforcement to court. Municipal courts have subject-matter jurisdiction in enforcement proceedings, unless otherwise provided for by law. Enforcement proceedings are conducted within the bounds defined by the writ of execution.

5. *Application for enforcement before the Financial Agency (Croatian: Financijska agencija), respectively request for direct payment on the debtor's accounts (Croatian: zahtjev za izravnu naplatu)*

The execution creditor may also file an application for enforcement to the Financial Agency (FINA) on the basis of enforcement title document only in case of execution of monetary claim against the debtor. The Financial Agency shall then issue a warrant to the bank to transfer the amount for which the enforcement has been ordered from all debtor's accounts kept under his personal identification number (Croatian: osobni identifikacijski broj, OIB) to the account of the execution creditor.

- List of the names of the courts, in your language and in English translation, which will hear B2B claims.

  Commercial Courts (Croatian: Trgovački sudovi) - in litigation proceedings

  High Commercial Court of the Republic of Croatia (Croatian: Visoki trgovački sud Republike Hrvatske) as 2nd instance court - in litigation proceedings

  Supreme Court of Republic of Croatia (Croatian: Vrhovni sud Republike Hrvatske) - in the procedure of extraordinary legal remedies

  Public notary (Croatian: Javni bilježnik) – in the enforcement proceeding upon a so-called trustworthy document

  Municipal Courts – in the enforcement proceedings

- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [x]
- Do you need a court representative? Yes [ ] No [x]
- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiff's costs for serving the complaint, if any; court representative, etc.)

  Court fees which are calculated on the basis of value in dispute, with minimum and maximum amounts as follows:

  - *litigation proceeding,*
    - minimum 100,00 HRK and maximum 5.000,00 HRK,
    - payment upon the court resolution issued after the verdict has been final,
    - the winning party may request from the other party within the litigation proceeding the reimbursement for the court fees (for example, claimant is obliged to pay the court fee for the verdict once he receives the court resolution in this regard, however, the claimant is entitled to claim this cost in his request for the reimbursement of the costs of the litigation proceeding),
  - *payment order*
    - please see above,
  - *enforcement proceeding before the public notary (on the basis of the trustworthy document),*
    - minimum 80,00 HRK and maximum 5.000,00 HRK,
    - paid in advance by the creditor
    - claimed from the debtor in the enforcement proposal so that they are enlisted in the enforcement order in addition to principal and interests,
  - *enforcement proceeding before the court on the basis of the writ of execution,*

- minimum 50,00 HRK and maximum 2.500,00 HRK
- paid in advance by the creditor upon the court resolution,
- claimed from the debtor in the enforcement proposal so that they are enlisted in the writ of execution order in addition to principal and interests,

- *proceeding of direct payment before the Financial Agency,*
  - minimum 50,00 HRK and maximum 5.000,00 HRK,
  - payment confirmation to be delivered together with the request for direct payment,
  - these costs are then automatically charged to debtor in the enforcement proceeding on his bank accounts.

Please note that when the subject in dispute is a monetary claim, then value in dispute equals the amount of such monetary claim. In case the subject in dispute is a non-monetary claim, then the claimant himself specifies the value in dispute which can be changed by the court in case the court decides that such value in dispute would be too high or too low. In case the court does not determine value in dispute at latest by concluding of the trial, then it is assumed that the value in dispute is 50.000,00 HRK.

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [x] No [ ]
- Are written statements (affidavit) admitted? Yes [x] No [ ]

Note: Only possible before the Commercial courts under prescribed circumstances.

- What documents are requested to proceed?

Any documents which can support the claim.

- Any formalities to fulfill for bringing an action?

No.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]
- Are Discovery proceedings allowed? Yes [x] No [ ]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [x] No [ ]
  If "Yes": describe the rules:

- *Litigation proceeding*
  - Before conclusion of the trial each party has to submit a specification of their costs of the proceeding. In case the party does not submit any request and / or specification, the Court is not authorized to award such party with any costs, regardless of the fact that this party has succeeded in dispute.
  - The costs of the proceeding include attorney's costs in accordance with the Attorney's Tariff, costs of the court expert, court interpreter, court fees and public notary's fees.
  - In general, party who loses a case completely is obliged to pay the costs of the opposing party. If the parties have been partially successful in the litigation, the court will first determine the percentage in which each of them has succeeded, then from the percentage of the party that has succeeded to a greater extent subtract the percentage of the party that has succeeded to a lesser extent, thereafter determine the amount of the individual and the amount of the party's overall costs incurred in the litigation that were necessary for the purposeful

conduct of the proceedings, and shall award that party compensation for a portion of such total costs corresponding to the percentage remaining after the said calculation of the percentages in which the parties succeeded in the litigation.

  - Notwithstanding the above-mentioned rules, the court may order one party to reimburse the other party for the costs caused by his or her own fault or by the incident that occurred to him or her. This may also be decided if the parties have been partially successful in the litigation in approximately equal parts.
  - The court may decide that one party shall reimburse all costs incurred by the opposing party and its intervenor if the opposing party failed only in a relatively small part of his or her claim and no special costs were incurred as a result.

- *enforcement proceeding before the public notary (on the basis of the trustworthy document),*
  - the costs of the proceeding include attorney's costs in accordance with the Attorney's Tariff and public notary's fees,
  - paid in advance by the creditor
  - claimed from the debtor in the enforcement proposal so that they are enlisted in the enforcement order in addition to principal and interests,
- *enforcement proceeding before the court on the basis of the enforcement document,*
  - the costs of the proceeding include Attorney's costs in accordance with the Attorney's Tariff, court fees and public notary fees,
  - paid in advance by the creditor upon the court resolution,
  - claimed from the debtor in the enforcement proposal so that they are enlisted in the enforcement order in addition to principal and interests,
- *proceeding of direct payment before the Financial Agency,*
  - minimum 50,00 HRK and maximum 5.000,00 HRK,
  - payment confirmation to be delivered together with the request for direct payment,
  - these costs are then automatically charged to debtor in the enforcement proceeding on his bank accounts.

- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

  In litigation proceedings each party has to submit a specification of their costs of the proceeding before the conclusion of the trial. In case the party does not submit any request and / or specification, the Court is not authorized to award such party with any costs, regardless of the fact that this party has succeeded in dispute. In the litigation and enforcement proceeding the court / public notary has to decide on such reimbursement in accordance with the above explained rules. The Court would not be authorized to overrule any costs for actions that are reasonable, necessary for the proceeding and in accordance with the applicable regulations.

- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  Please, see above.

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]

If "Yes". How does it work?

Yes. In litigation and enforcement proceeding party who loses a case completely is obliged to pay the costs to the opposing (winning) party.

- What is the standard time frame for obtaining a judgment?

  In Croatia trials in litigation proceedings tend to last very long. It is not possible to provide you with the exact timeframe, but approximate timeframe would be 1-3 years, excluding possible appeal proceedings.

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  In general, in litigation proceedings an appeal must be made within a period of fifteen days of the day of delivery of the first instance ruling. In the enforcement proceeding/payment order an appeal must be made within a period of eight days of the day of delivery of the enforcement order/payment order.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  A court decision ordering the fulfilment of a claim on payment or performance is enforceable if it has become legally effective and if the term for voluntary fulfilment has expired. The term for voluntary fulfilment runs from the date of delivery of the legally effective decision to the execution debtor, unless provided otherwise by law.

  A court decision ordering the fulfilment of a claim on sufferance or non-performance (failure to act) is enforceable if it has become legally effective, unless the enforceable deed specifies a special term during which the execution debtor has to comply with his obligation.

  Interim measures may be ordered by the court on the basis of an application of the insurance creditor proposed before the institution of or during the course of judicial proceedings and after these proceedings terminate until the enforcement is implemented. Rulings on ordering interim measures have the authority of a writ of execution. Types of interim measures depend on the fact whether the interim measure secures a monetary or non-monetary claim. The court may, depending on the circumstances of the case, order several interim measures, if necessary.

  In order to secure certain monetary claim, the Court may, for example, issue an interim measure forbidding the debtor to dispose with certain amounts on his bank accounts.

  Interim measure for securing a monetary claim may be imposed if the security creditor makes probable:

  (i) his claim towards the debtor and

  (ii) the risk that without such a measure the debtor will prevent or substantially complicate the payment of the claim by disposing of, concealing or otherwise disposing of his property.

  The security creditor is not obliged to prove previously mentioned danger if he or she makes it probable that the proposed measure would impose only minor difficulties to the security debtor.

  The danger referred to previously shall be deemed to exist if the claim were to be realised abroad.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  In case the subject in dispute was a monetary claim, whereby the judgement orders payment of certain monetary amounts is to be enforced by submitting a request for direct

payment on the prescribed form to Financial Agency (Croatian: Financijska agencija) which executes the enforcement on debtor's bank accounts. Together with the prescribed form the creditor must submit the court decision (original or certified copy) with validity and enforceability clause. Enforceable judgement ordering payment of monetary claims may be enforced also on other debtor's assets, such as real estates, movables by initiating of the enforcement proceeding before the court.

In case the subject in dispute is a non-monetary claim, for example, handover of certain documentation or goods, and the debtor does not proceed as ordered in the final and enforceable judgement, than the creditor must submit an enforcement proposal to the competent court requesting that the court issues enforcement order which is then executed by the court (Croatian: sud), respectively the court officer (Croatian: sudski ovršitelj).

- Costs of enforcement?

  Costs of enforcement of the judgements are calculated in relation to the value in dispute and include attorneys' costs and court fees. Value in dispute is the basis for calculation of all costs and fees, with minimum and maximum amounts as follows:

  - *in the enforcement proceeding before the court (in case the subject in dispute was a non-monetary claim or in case of enforcement proceeding on real estates, movables),*
    - minimum 50,00 HRK and maximum 2.500,00 HRK / per action,
    - In case the subject in dispute is a non-monetary claim, then the claimant himself specifies the value in dispute which can be changed by the court in case the court decides that such value in dispute would be too high or too low. In case the court does not determine value in dispute at latest by concluding of the trial, then it is assumed that the value in dispute is 50.000,00 HRK.
  - *in the proceeding of direct payment before the Financial Agency (in case the subject in dispute is a monetary claim)*
    - minimum 50,00 HRK and maximum 5.000,00 HRK of the fee for initiating of this proceeding.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  - *Protection of debtors that are legal persons in enforcement procedures of pecuniary claims*
    - If the debtor is a legal person, in general the enforcement may be executed on debtor's tangible and intangible property, however the execution may not be enforced on the assets and rights of legal persons if the assets or rights are required to perform the registered activity.
  - *In relation to natural persons there are some limitations on enforcement such as:*
    - belongings that are exempt from the enforcement such as: clothing, shoes, underwear and other personal usage items, working and breeding livestock, agricultural machines and other working tools, decorations, medals, etc.,
    - real estate objects that may not be subject to enforcement (agricultural land and farm buildings of an agriculturalist to the extent required for his support and the support of his nuclear family members and other persons whom he is obliged to support under law),
    - pecuniary claims – it is specified which of the debtor's income is exempt from enforcement,
    - If the debtor is a natural person who does not perform a registered activity, the execution may not be enforced on the assets and rights which are essential to

satisfy the basic living needs of the execution debtor and those of persons he is obliged to support in accordance with law.

- If the natural person as debtor performs a registered activity, the execution may be enforced on his entire property, except on the assets and rights on which the execution could not be enforced if such person did not perform a registered activity and on the assets and rights that he needs to perform the registered activity if such registered activity is its main means of support.

7. <u>Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:</u>

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  In order to enforce judgements rendered in EU member states, Iceland, Norway and Switzerland within Croatia, such judgements must be recognised in Croatia under the rules as prescribed by the respective regulation. The respective regulation entered in force in Croatia on 1.7.2013.

- What are the documents required?

  A party seeking recognition or applying for a declaration of enforceability in Croatia shall produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity and which contains a clause on legal validity and enforceability. A party applying for a declaration of enforceability shall also produce the certificate using the standard form in Annex V to the respective regulation issued by the court or competent authority of a Member State where a judgment was given.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Municipal Courts (Croatian: Općinski sudovi) or Commercial Courts (Croatian: Trgovački sudovi) decide on domestication of EU judgements in Croatia.

  The local jurisdiction shall be determined by reference to the place of domicile of the party against whom enforcement is sought, or to the place of enforcement.

- Costs?

  250,00 HRK court fees.

- Time frame for obtaining recognition and enforcement from your courts?

  Please note that the procedure for recognition may take from 1-2 months. Duration of the enforcement proceeding is not possible to define.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  In order to enforce judgements rendered in EU member states, Iceland, Norway and Switzerland within Croatia, such judgements must be recognised in Croatia under the rules as prescribed by the respective regulation. The respective regulation entered in force in Croatia on 1.7.2013.

- What are the documents required?

A party seeking to invoke in Croatia a judgment given in another Member State shall produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity; and the certificate issued by the country of origin in the standard form prescribed in Annex I to the respective regulation. A judgment given in a Member State which is enforceable in that Member State shall be enforceable in Croatia without any declaration of enforceability being required.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Municipal Courts (Croatian: Općinski sudovi) or Commercial Courts (Croatian: Trgovački sudovi) decide on domestication of EU judgements in Croatia.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  In order to enforce judgements rendered in state members of the convention, such judgements must be recognised in Croatia under the rules as prescribed by the respective Convention (if Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters is not applied in this regard). This Convention shall apply only to legal proceedings instituted and to documents formally drawn up or registered as authentic instruments after its entry into force in the State of origin and, where recognition or enforcement of a judgment or authentic instruments is sought, in the State addressed. In Croatia this Convention entered into force on 1.7.2013.

- What are the documents required?

  A party seeking to invoke in Croatia a judgment given in another Lugano Convention Member State shall produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity; and the certificate on enforceability issued by the country of origin. In addition, as prescribed by the Convention.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Municipal Courts (Croatian: Općinski sudovi) or Commercial Courts (Croatian: Trgovački sudovi) decide on domestication of EU judgements in Croatia.

8. Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:

- Conditions and test?

  In Croatia prescribed by Act on international private law (Official gazette 101/17).

- What are the documents required?

  A party seeking to invoke in Croatia a judgment given outside of EU member states, Iceland, Norway and Switzerland shall produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity together with validity and enforceability clause and certified translations thereof.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  Municipal Courts (Croatian: Općinski sudovi) or Commercial Courts (Croatian: Trgovački sudovi) decide on domestication of EU judgements in Croatia.

- Costs?

  250,00 HRK court fee.

- Time frame for obtaining recognition and enforcement from your courts?

  Please note that the procedure for recognition may take from 1-2 months. Duration of the enforcement proceeding is not possible to define.

9. <u>Are there any special remarks on the court system in your country?</u>

No.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Assignment of claims is permitted and regulated in the Croatian Civil Obligations Act. In order to assign a claim, the assignor and the assignee conclude the Agreement on assignment and inform the debtor about assignee being the new creditor.

  Assignment of claims is forbidden only in relation to claims whose transfer is not permitted by law, or which are strictly personal in nature, or whose very nature is incompatible with assignment to another.

- What are the conditions and formalities for assigning a claim?

  In order for the assignment to be invoked against the debtor, it is required for the assignor to inform the debtor of the assignment of claim. In case prior to assignment of claim the assignor had already initiated civil or enforcement proceeding against the debtor, in order for the assignee to be able to claim assignor's position in the respective proceedings, Agreement on assignment of claim must be notarized (signature certification).

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  Accessory rights and guarantees relating to the claim shall pass to the assignee together with the claim.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The assignment of claim can only have an effect on the debtor after he received a notification of assignment. If this is the case, the debtor cannot object to assignment of claim itself. However, in relation to the assigned claim the debtor may raise against an assignee, in addition to objections he has against him, also those which he was able to raise against the assignor until the moment of being notified of the assignment.

  The assignee may enforce the assigned claim against the debtor under the same conditions as the assignor was entitled to. For example, in case prior to assigning the assigned claim was determined in the enforcement document, then the assignee may request enforcement before the Financial Agency (direct payment proceeding). On the other hand, in case the assignor did not have the enforcement document in relation to the claim, but only invoice or similar, then the assignee may file a proposal for enforcement on the basis of a trustworthy document.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  In relation to any third party the assignor is considered as the creditor in relation to the assigned claim in case he is able to prove that the claim has been assigned.

November 26, 2019

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CYPRUS

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [X]
- Purchase order — No [x] Yes [ ]
- Acknowledgment of purchase order — No [x] Yes [ ]
- Proof of delivery — No [ ] Yes [X]
- Invoice — No [ ] Yes [X]
- General terms and conditions — No [x] Yes [ ]
- Exchanges of correspondence — No [x] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [x] Yes [ ]
- Other documents? — No [x] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [X] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [X] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [X] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [X]
  If "Yes": which?

  Usually there is a charge for the letter of demand and the service of the demand letter.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [X] Yes [X]
  If "Yes": any consequences?

  It is not fatal for the Claimant and there aren't any consequences however it is the standard procedure. If the debtor does not receive a letter of demand regarding a debt, he can use it as Defense, e.g. it was not on his knowledge that the debt has been outstanding.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [X] 10 [ ] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [X] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [X]
  If "Yes": any form?

  If the client is from Cyprus then you need a Power of Attorney, if not then you do not need. There is a particular form of the Power of Attorney which has been dictated by the law.

- List of the proceedings which are available (with their names in your language and English translation) and <u>briefly</u> develop such proceedings.

  Αγωγή – Legal Action

  Αίτηση Εκκαθάρισης – Liquidation / Bankruptcy Notice

  Εγγραφή αλλοδαπής απόφασης – Registration of a foreign Judgment

  Εγγραφή διαιτητικής Απόφασης – Registration of an Arbitral award

  Ευρωπαϊκή Διαταγή πληρωμής – European Payment Order

- List of the names of the courts, in your language and in English translation, which will hear B2B claims.

  Επαρχιακά Δικαστήρια (Αστικά και Ποινικά) - District Courts (Civil or Criminal)

- Can you claim the payment in a foreign currency before your national courts? Yes [X] No [ ]

  You must convert it to EUROS as well.

- Is election of domicile required when acting for a foreign creditor? Yes [X] No [ ]

- Do you need a court representative? Yes [X] No [ ]

- Do you need to post a bond when bringing proceedings? Yes [ ] No [X]

- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiff's costs for serving the complaint, if any; court representative, etc.)

  It depends on what procedures will be followed and the amount of the claim.

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [X] No [ ]

- Are written statements (affidavit) admitted? Yes [X] No [ ]

- What documents are requested to proceed?

  In order to file the Legal Action technically you do not need any document. In order to prove your claim you must have every relevant document available, the most important documents is the contract. In Cyprus, the Claimant must prove his claim in the scale of probabilities.

- Any formalities to fulfill for bringing an action?

  No.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [X] No [ ]

- Are Discovery proceedings allowed? Yes [X] No [ ]

- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No [X]
  If "Yes": describe the rules:

- Does the court have to decide on such reimbursement or is it automatic? Yes [X] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [X] No [ ]
  If "Yes": describe the rules:

  The Court will decide based on the facts of the case, most of the times, the costs reimbursed to the winning party but it is not a rule. Also the parties might decide that each party will pay its own costs.
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [X] No [ ]
  If "Yes". How does it work?

  The Court will decide based on the facts of the case.
- What is the standard time frame for obtaining a judgment?

  Undisputed claim – 10 days to file the petition to obtain a judgment

  Disputed claim – it might take several years (6-7years)
- What is the time frame for lodging a recourse against the judgment rendered by the court?

  42 days

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  If you obtain a judgment, even if the other party proceed with appeal, you can proceed with the enforcement unless the other party files a request of "stay of procedures" to stop the executions.
- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Δικαστικός Επιδότης – Court Bailiff
- Costs of enforcement?

  Not specified.
- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Movable or immovable property

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  Cyprus is bound by EC Regulations, thus there is no need to implement the Regulations into National Law. The recognition of judgment from one member state to the other now is automatic saving both time and costs to the parties.
- What are the documents required?

Proof that the originating summons has been served and a true copy of the judgment and a certified translation of the documents.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Δικαστής Επαρχιακού Δικαστηρίου – Judge of District Court

- Costs?

  Depends on the proceedings and the amount of the claim.

- Time frame for obtaining recognition and enforcement from your courts?

  Approximately 3 to 6 months after the application is filed.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015.

- Conditions and test?

  The above regulations reformed certain aspects of the existing law to better address better contemporary needs while retaining its principal objective of facilitating the free circulation of judgments and to further enhance access to justice.

- What are the documents required?

  Proof that the originating summons has been served and a true copy of the judgment and a certified translation of the documents.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Δικαστής Επαρχιακού Δικαστηρίου – Judge of District Court

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  Conditions are subject to the Lugano Convention Regulations

- What are the documents required?

  Proof that the originating summons has been served and a true copy of the judgment and a certified translation of the documents.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Δικαστής Επαρχιακού Δικαστηρίου – Judge of District Court

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  Cyprus is bound by bilateral treaties in relation to the recognition and enforcement of foreign judgments and also a signatory to multilateral conventions relating to the recognition and enforcement of foreign judgments.

- What are the documents required?

  It depends on the Articles of the Treaty.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  Δικαστής Επαρχιακού Δικαστηρίου – Judge of District Court

- Costs?

  Depends on the proceedings and the amount of the claim.

- Time frame for obtaining recognition and enforcement from your courts?

  Approximately 6 months to a year after the application is filed.

9. <u>Are there any special remarks on the court system in your country?</u>

No.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes, it is possible. A general rule is that the other party must have a full knowledge of the assignment and agrees to it.

- What are the conditions and formalities for assigning a claim?

  The assignor must make a clear statement of intent to assign clearly identified contractual rights to the assignee

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  An assignor cannot relieve himself from the contract obligations merely by assigning the contract to a third party.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The debtor is liable to the buyer, if the debtor gave his consent for the assignment to happen.

  Yes it is enforceable though if the debtor can prove that he had no knowledge about the assignment he can object.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

The assignee can sell the debt to a third party though the third party must make sure that he will receive the documents which prove the original claim and the consent which was given by the debtor then.

October 2019

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CZECH REPUBLIC

1. Necessary documents for the lawyer to start the case

- Contract — No [x] Yes [ ]
- Purchase order — No [ ] Yes [x]
- Acknowledgment of purchase order — No [x] Yes [ ]
- Proof of delivery — No [ ] Yes [x]
- Invoice — No [ ] Yes [ ]
- General terms and conditions — No [x] Yes [ ]
- Exchanges of correspondence — No [x] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [x] Yes [ ]
- Other documents? — No [x] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [x] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?

  You can ask for costs connected with recovery of the claim in the amount of 1.200,- CZK but only in cases between businessmen.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [ ] Yes [x]
  If "Yes": any consequences?

  You have to write debtor dunning letter before starting proceeding at court. If you do not write it the court will not start proceeding but will not decide about the obligation of the debtor to pay costs of the proceeding.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [x] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [x] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

It is 8,05 % plus rate for bank operations set by the Czech National Bank

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [x]
  If "Yes": any form?
- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  Občanské soudní řízení (civil court proceeding) – the proceeding is started by filing action to court. The court will ask for payment of court fee. Then if subject of the claim is monetary claim the court can issue payment order without oral hearing only upon the evidence provided by the plaintiff. By this payment order the debtor is asked to pay the amount including interests and court fee or file appeal against the order. If the appeal is filed by the debtor, court will summon hearing and both parties will attend the hearing at court. The court will decide upon the evidence provided to court. Party which was not successful at court can file appeal against the decision. It is not possible to file appeal if subject of the proceeding was claim under 10.000,- CZK (400 EUR). The appellate court than confirms the decision of the court of the first instance or change the decision of the court of the first instance or cancel the decision and return the case back to the court of the first instance.
- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  All claims would be decided by Okresní soud (District Court).
- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [x] No [ ]

  The court will ask for the address for delivery of documents from court in the Czech Republic. When the foreign creditor has legal representative in the Czech Republic court delivers to the representative in the Czech Republic.
- Do you need a court representative? Yes [ ] No [x]
- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  You have to pay court fee for starting proceeding. Further costs when applicable, for example costs of expert opinion.
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [x] No [ ]
- Are written statements (affidavit) admitted? Yes [ ] No [x]
- What documents are requested to proceed?

You file action to court in which you have to specify plaintiff, defendant, court, subject of the proceeding, explanation of your claim and what you ask for.

- Any formalities to fulfill for bringing an action?

  In civil proceeding rules are set requirements for action – name of plaintiff, defendant, court, subject of the proceeding, suggested decision of court. There is also special form if you ask for electronic payment order. No other formalities.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]

- Are Discovery proceedings allowed? Yes [ ] No [x]

- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [x] No [ ]
  If "Yes": describe the rules:

  Part of the decision of court is verdict about the costs of the proceeding. Upon the Czech Civil Proceeding Code the verdict about costs is dependent on the success of the party. If the party is successful in 100 % of the claim the court will levy the opposite party to pay 100 % of the costs. Costs are court fee and if represented by attorney attorney´s fee in the amount counted from the Regulation about Attorney´s Fee. Usually it is counted from the amount of the claim and number of legal acts of attorney. When subject of the proceeding is claim under 50.000,- CZK and action is filed on the form for electronic payment order attorney fee is counted from the fixed amount and not from the amount of the claim. The court will also ask to reimburse out-of-pocket expenses – 300,- CZK per one legal act and travel costs in case the court is not in the same city where is the office of attorney. If the party is not successful in 100 %, the costs are lower about the percentage in which the party was not successful. There are some exceptions where the reimbursement of costs is not granted.

- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  The court has to decide about the lawyers´ fee. Reimbursement depends on the success in the case. When the party is successful in 100 %, lawyers´ fee is reimbursed in 100 %. The amount of lawyers´ fee depends on the amount of the claim and is regulated by the Regulation about Attorney´s fee. The amount also depends on the number of acts of lawyer in the case. Out-of-pocket expenses and travel costs are also reimbursed. When subject of the proceeding is claim under 50.000,- CZK and action is filed on the form for electronic payment order attorney fee is counted from the fixed amount and not from the amount of the claim.

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  The court will decide in one verdict about the rejection of claim and in second verdict that the party which was not successful – lost the case is oblige to pay costs of the other party. This verdict is execution title and can be also subject of execution.

- What is the standard time frame for obtaining a judgment *6 - 12 Months*

- What is the time frame for lodging a recourse against the judgment rendered by the court?

- 6-12 months

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  In the Czech Republic only final judgements are enforceable. The judgment must be final and should bear stamp about the legal force. It is not necessary to pay security when starting enforcement of judgment.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  There are two ways how to enforce judgments in the Czech Republic. The creditor can ask court to enforce the judgment or private executor. The enforcement of judgment is than made by court – okresní soud (District Court) relevant where is the seat/residence of debtor or by soudní exekutor (executor) which can be chosen by the creditor from the list of executors. There is 157 executors in the Czech Republic.

- Costs of enforcement?

  When the creditor asks court to start enforcement of judgment there is paid court fee in the amount of 3 % from the amount of claim. If creditor asks executor to enforce judgment the costs are counted from the claim, but costs of execution has to pay also debtor. When the execution is not successful and any amount was paid by the debtor, the executor can ask creditor to pay minimum costs which is 7.500,- CZK.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  If creditor asks court to make enforcement of the judgement he is also obliged to choose manner of execution – on which asset – movables, immovable, bank account, salary etc. If you ask executor for the enforcement execution is possible on all debtor´s assets. There are some regulations concerning things that cannot be subject of the execution and some limits for the execution on the salary of debtor.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  Upon the art. 54 and 58 of the Regulation of Council (EC) Nr. 44/2001

- What are the documents required?

  Judgment of the court issued in EU country should bear certificate upon art. 54 and 58 of the Regulation of Council (EC) Nr. 44/2001. Both judgment and certificate have to be translated to the Czech language.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  About the recognition and enforcement of the judgment in the Czech Republic decides the same court which is appropriate to start execution and is determined by the seat or residence of the debtor. It is done by okresní soud (District Court) in the Czech Republic.

- Costs?

There are no special costs for recognition and enforcement of the judgment in the Czech Republic. The creditor should count with costs for issueing of certificate in its domestic country and bear costs of translation to Czech.

- Time frame for obtaining recognition and enforcement from your courts?

  Time frame is almost the same as in starting execution for judgments issued in the Czech Republic, it is approximately 3 months.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  A judgment given in a Member state which is enforceable in that Member state shall be enforceable in the other Member states without any declaration of enforceability being required.

- What are the documents required?

  For the purposes of enforcement of a judgment in a Member state given in another Member State, the applicant shall provide the competent enforcement authority with a copy of the judgment which satisfies the conditions necessary to establish its authenticity and the certificate issued pursuant to Article 53, certifying that the judgment is enforceable and containing an extract of the judgment as well as where appropriate, relevant information on the recoverable costs of the proceeding and the calculation of interest.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  About the recognition and enforcement of the judgment in the Czech Republic decides the same court which is appropriate to start execution and is determined by the seat or residence of the debtor. It is done by okresní soud (District Court) in the Czech Republic.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  A judgment given in a State bound by this Convention and enforceable in that State shall be enforced in another State bound by this Convention when, on the application of any interested party, it has been declared enforceable there.

- What are the documents required?

  A party seeking recognition or applying for a declaration of enforceability shall produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity.

  A party applying for a declaration of enforceability shall also produce the certificate referred to in Article 54.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Court or competent authority to which the application may be submitted is okresní soud (District Court) or soudní exekutor (executor).

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  Recognition and enforcement of foreign judgment is regulated by Statute Nr. 91/2012 about the international private and proceeding law. Foreign judgments are effective in the Czech Republic if they are in legal force upon statement of the foreign court and are recognised in the Czech Republic. Recognition of the foreign judgments in cases concerning property is informal , i.e. there is no special verdict about recognition of the foreign judgment. Czech court will look on the foreign judgment as it is Czech judgment. There are regulations for cases in which the foreign judgment cannot be enforced :

  - *Exclusive jurisdiction of Czech court*
  - *Litispendention*
  - *Breach of debtor´s right to be heard at court*
  - *Is contrary to the Czech legal order*
  - *Missing mutuality*

- What are the documents required?

  For the enforcement of the foreign judgment the judgment must bear statement about legal force and be translated to Czech.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  About the enforcement of the non-EU judgment in the Czech Republic decides the same court which is appropriate to start execution and is determined by the seat or residence of the debtor. It is done by okresní soud (District Court) in the Czech Republic.

- Costs?

  There are no special costs for recognition and enforcement of the judgment in the Czech Republic.

- Time frame for obtaining recognition and enforcement from your courts?

  Time frame is almost the same as in starting execution for judgments issued in the Czech Republic, it is approximately 3 months.

9. <u>Are there any special remarks on the court system in your country?</u>

Court system in the Czech Republic is very formal, all documents must be translated into Czech. Disadvantage of the Czech court system is length of the proceeding.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  The creditor (as assignor) may assign the entire claim or part of it by the contract without the debtor's consent to another person (assignee). By assignment of the claim, the Assignor also acquires its accessories and rights with the receivable, including its security.

  The assignor shall issue the necessary evidence of the claim to the assignee and inform him of all that is required to collect the claim. A claim which can be disposed of may be transferred if the debtor's and the creditor's arrangement does not exclude this. It is not

possible to assign a claim which ceases to exist by death or whose content would be changed by the change of the creditor to the debtor's detriment.

- What are the conditions and formalities for assigning a claim?

  Assignor and assignee should sign the written contract about the assignment of claims. If the claim is subject of the civil proceeding signatures on the contract on assignment of claims have to be certified.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  If the claim was made for remuneration, the assignor shall, up to the amount of the remuneration received, be liable for the claim at the time of the assignment and shall be liable for its recoverability. This does not apply if the assignee knew that the claim was future, uncertain or irrecoverable. The assignor is not responsible for the recoverability of the assigned claim, if it became irrecoverable only after the referral either by accident or inadvertently by the assignee. In particular, a claim is not collected without undue delay after it has become due.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  Provided that the assignor does not inform the debtor, or until the assignee proves the assignment to the debtor, the debtor can exempt his duties by fulfilling the assignor. The debtor remains, even after the assignment, retained objections to the claim, which he had at the time of referral. The debtor may also oppose his or her mutual claims against the assignee, even if at the time of the assignment they have not yet been due; He must, however, notify his claims to the assignee without undue delay after he has learned about the assignment.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  The assignment of the claim does not have any effect on the person who secured the debt by a lien, guarantor or otherwise until the assignor has been informed by the assignee of the assignment or until the assignor has proved the assignment of the claim.

October 31, 2019

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DENMARK

1. Necessary documents for the lawyer to start the case

- Contract — No [x] Yes [ ]
- Purchase order — No [x] Yes [ ]
- Acknowledgment of purchase order — No [x] Yes [ ]
- Proof of delivery — No [x] Yes [ ]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [x] Yes [ ]

  General terms and conditions are not mandatory, however, for example, if you want to claim conventional interests and/or a penalty clause, it is recommended to include this in the general terms and conditions.
- Exchanges of correspondence — No [x] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [x] Yes [ ]
- Other documents? — No [x] Yes [ ]

Those documents checked with "no" are not mandatory, but can be useful to prove the claims in court.

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [x] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?

  The Creditor can be entitled to recovery costs or compensation according to fixed standard terms ("inkassosalær").
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [ ] Yes [x]
  If "Yes": any consequences?

  The court will refuse to start proceedings if no out of court collection has been performed.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [x] 4 [ ] 5 [ ] 6 [ ] 10 [x] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [x] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the Danish National Bank)

5. Court actions:

- Can you claim recovery costs out of court? No [ ] Yes [x]
  If "Yes": which?
- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  Dagvaarding ten gronde (summon on the merits): Summon by bailiff, court date for the introduction of the case. If there is no discussion, a judgement will follow a few weeks after the initial court date. If there is a discussion, the parties will need to make written conclusions. The pleading will follow after the written conclusions. The date of this will depend on the availability of the court. After the judgement, it is possible to appeal the judgement. If no appeal is made, the execution of the judgement will be done by the bailiff.

  Europees betalingsbevelprocedure (European order for payment procedure): The creditor needs to file an application form after which the court will examine the application. When the application is accepted the court issues a European order for payment. When the debtor opposes the decision, the same procedure as above has to be followed. When no opposition is made, the debtor must proceed with payment of the debt.

  Summiere rechtspleging om betaling te bevelen (summary order for payment procedure): When the claim is made for the payment of a liquidated debt of no more than €1860, it is possible to use the summary order for payment procedure, if the claim falls within the competence of the Justice of Peace (Vrederechter/Justice de Paix). This will typically not be possible in a B2B relationship. The assistance of a lawyer is required in this procedure. Within 15 days, the court has to take a decision.

  Invordering van onbetwiste geldschulden (recovery of uncontested monetary debts): In a B2B relation, any undisputed debt which is the subject of a sum of money and which is established and due on the day of the reminder, irrespective of its amount, increased by the surcharges provided for by law and the collection costs and, where applicable and up to a maximum of 10% of the principal amount of the debt, all interest and penalty clauses, in the name of and for the account of the creditor, may be collected by the bailiff at the request of the creditor's lawyer.
- List of the names of the courts, in your language and in English translation, which will hear B2B claims.

  In general: Byretterne (Ordinary Courts of first instance)
- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [x]
- Do you need a court representative? Yes [ ] No [x]
- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

Basis fee of DKK 500. The claim is exceeding DKK 50.000 the fee is increased with DKK 250 and 1,2 % of the value above DKK 50.000. The fee cannot exceed DKK 75.000.

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [x] No [ ]
- Are written statements (affidavit) admitted? Yes [ ] No [x]
- What documents are requested to proceed?

  All documents which can support the claim.
- Any formalities to fulfill for bringing an action?

  None.
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]
- Are Discovery proceedings allowed? Yes [ ] No [x]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No [x]
  If "Yes": describe the rules:
- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]

  Lawyers' fees are not reimbursed directly. The courts will decide on the costs, normally the cost award will not cover the actual costs.
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]

  The losing party will have to pay the costs and lawyers' fees. The courts will decide on the costs, normally the cost award will not cover the actual costs.
- What is the standard time frame for obtaining a judgment?

  The time frame depends on whether or not the claim is disputed. For a default judgement, the time frame will be 4 to 6 weeks. For a case where the claim is disputed, the time frame for a judgement can be 6 to 12 months, depending on the workload of the court.
- What is the time frame for lodging a recourse against the judgment rendered by the court?

  The time frame for lodging a recourse is, in general, four weeks after the judgement has been rendered.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  In general, a judgement can be enforced 14 days after it has been rendered, even when the debtor can still appeal or already has appealed the judgement.
- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Fogedretten: the bailiff
- Costs of enforcement?

  The costs of enforcement depend on the method of execution.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Basically, all assets can be seized. Goods that are necessary to have a basic day to day life cannot be seized ("trangsbeneficiet"). These goods include personal belongings, some basic goods (such as a bed, table, chair, television.). Wages that are not yet paid out can only be seized to a limited extent.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  Execution can take place directly. Translation is not necessary for judgments in English.

- What are the documents required?

  The required documents are an expedition of the judgement, the service of the judgement to the debtor, the certificate referred to in article 54 of the Regulation and, when needed, a translation of the documents produced.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Fogedretten (Bailiffs Cout) at the domicile of the defendant.

- Costs?

  There is a basic fee of DKK 300. If the claim exceeds DKK 3.000, an additional fee of ½ % of the amount above is applicable.

- Time frame for obtaining recognition and enforcement from your courts?

  The recognition will take 3 to 4 months. The time frame for the execution will depend on what needs to be done to execute the judgement.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  If the judgement is enforceable in another member state, the judgement is enforceable in Denmark. However, the debtor can make a substantiated request to the court to deny the execution of the judgement.

- What are the documents required?

  The needed documents are an expedition of the judgement, the certificate referred to in article 54 of the Regulation and, when needed, a translation of the judgement.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Fogedretten (Bailiffs Court) at the domicile of the defendant.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  If the judgement is enforceable in another member state, the judgement is enforceable in Denmark. However, the debtor can make a substantiated request to the court to deny the execution of the judgement.

- What are the documents required?

  The required documents are an expedition of the judgement and a certificate issued by the court of authority where the judgement was given as stated in article 54 of the convention.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Fogedretten (Bailiffs Court) at the domicile of the defendant.

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  A judgement given outside of the above mentioned Regulations and convention, needs to follow the exequatur procedure, before it can be enforced in Denmark.

- What are the documents required?

  The needed documents are:

  - *a copy of the judgement;*
  - *where a judgment has been given in default of appearance, the original or a certified copy of the document which establishes that the defaulting party was served with the document instituting the proceedings or with an equivalent document in accordance with the law of the State where the judgment was given;*
  - *any document establishing that the judgment is enforceable and has been served in accordance with the law of the State in which it was given.*

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  Byretterne (Courts of first Instance)

- Costs?

  The costs will depend on the origin of the judgement.

- Time frame for obtaining recognition and enforcement from your courts?

  The recognition will take 3 to 4 months. The time frame for the execution will depend on what needs to be done to execute the judgement.

9. <u>Are there any special remarks on the court system in your country?</u>

In Denmark it is possible to recover undisputed debts with the help of the bailiff in a fast track procedure (Betalingspåkrav), which is similar to the German "Mahnbescheid".

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  It is possible for an assignor to assign a claim to an assignee. There are no restrictions.

- What are the conditions and formalities for assigning a claim?

  In order for the assignment to be invoked against the debtor, it is required for the assignee to inform the debtor of the assignment of the claim.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  Guarantees and rights relating to the claim are only transferred from the assignor to the assignee if this is explicitly agreed on.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The assignment of the claim can only have an effect on the debtor after he received a notification of the assignment. If this is the case the debtor cannot object.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  Third parties cannot be oppose an assignment unless this has not been notified to the debtor.

November 13, 2019

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ENGLAND & WALES

1. Necessary documents for the lawyer to start the case

- Contract No [ ] Yes [ ]
- Purchase order No [ ] Yes [ ]
- Acknowledgment of purchase order No [ ] Yes [ ]
- Proof of delivery No [ ] Yes [ ]
- Invoice No [ ] Yes [ ]
- General terms and conditions No [ ] Yes [ ]
- Exchanges of correspondence No [ ] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) No [ ] Yes [ ]
- Other documents? No [ ] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? No [ ] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? No [ ] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? No [ ] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? No [ ] Yes [ ]
  If "Yes": which?
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? No [ ] Yes [ ]
  If "Yes": any consequences?

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [ ]
  If "Yes": any form?
- List of the proceedings which are available (with their names in your language and English translation) and <u>briefly</u> develop such proceedings
- List of the names of the courts, in your language and in English translation, which will hear B2B claims.
- Can you claim the payment in a foreign currency before your national courts? Yes [ ] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [ ]
- Do you need a court representative? Yes [ ] No [ ]
- Do you need to post a bond when bringing proceedings? Yes [ ] No [ ]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiff's costs for serving the complaint, if any; court representative, etc.)
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [ ]
- Are written statements (affidavit) admitted? Yes [ ] No [ ]
- What documents are requested to proceed?
- Any formalities to fulfill for bringing an action
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [ ] No [ ]
- Are Discovery proceedings allowed? Yes [ ] No [ ]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No [ ]
  If "Yes": describe the rules:
- Does the court have to decide on such reimbursement or is it automatic? Yes [ ] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [ ] No [ ]
  If "Yes": describe the rules
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [ ] No [ ]
  If "Yes". How does it work?
- What is the standard time frame for obtaining a judgment? ____ Months
- What is the time frame for lodging a recourse against the judgment rendered by the court?

6. **Enforcement of domestic judgments:**

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?
- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.
- Costs of enforcement?
- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

7. **Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland:**

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.
- Costs?
- Time frame for obtaining recognition and enforcement from your courts?

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

8. **Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:**

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.
- Costs?
- Time frame for obtaining recognition and enforcement from your courts?

9. Are there any special remarks on the court system in your country?

10. Assignment of claim:

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes a debt or a Judgment may be assigned in writing to another. Written notice of the assignment must be given to the debtor before the assignee can take action to recover the debt or the judgment.

- What are the conditions and formalities for assigning a claim?

  a formal written assignment clearly identifying the debt or judgment being assigned, the value paid by the assignee and signed by both. Written Notice of the assignment is then given to the debtor.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)?

  In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)? The Assignee takes all rights and obligations, so will have all the same rights held by the assignor but also all obligations including any entitlement to set off or cross claim held by the debtor which accrued before Notice of Assignment is given. After such notice has been given no set off may accrue against the assignee. Once assigned the Assignor will have no right to receive any payment for the debt.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  See above. The debtor has no right to object to the assignment unless the contract between the assignee and the debtor specifically prohibits any assignment of the right to receive payment for the debt.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  No.

October, 2019

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FRANCE

1. Necessary documents for the lawyer to start the case:

- Contract — No [ ] Yes [**x**]
- Purchase order — No [ ] Yes [x]
- Acknowledgment of purchase order — No [ ] Yes [x]
- Proof of delivery — No [ ] Yes [x]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [ ] Yes [x]
- Exchanges of correspondence — No [ ] Yes [x]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [x]
- Other documents? — No [x] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?

  However, it is standard practice to ask the name of the opposite lawyer in the demand letter sent by a lawyer.

  Besides, it is advisable to indicate in the dunning letter that the creditor is prone to seekan amicable resolution of the claim with the debtor, in order to meet applicable French rules in this field.
- Has back-up documentation to be attached to the demand letter? — No [ ] Yes [x]
  If "Yes": What type of back-up documentation?

  At a minimum, one should attach a statement of account and preferably invoices.
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?

  €40 per unpaid invoice as per EU rules implemented in France.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts — No [x] Yes [ ]
  If "Yes": any consequences?

  However, the creditor will have to explain in the writ of summons its attempts for trying tosolve amicably the dispute, out of court, before resorting to the courts system.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [**x**] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [**x**] 11 [ ] 12 [ ] %

(-points above the base rate of the European Central Bank for main refinancing operations)

5. <u>Court actions:</u>

- Power of attorney? No [x] Yes [ ]
  If "Yes": any form?

  No POA is requested from the attorneys-at-law for court actions.

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  There are basically 3 types of proceedings which are available:

  - *«Injonction de payer» (order to pay): ex-parte proceedings (i.e. in the absence of debtor), basically for monetary claims based on contract or statute, or bills of exchange, or specific assignment of claims, to be filed with the chairman of the commercial court where debtor is located. This is a cheap and fast procedure (few weeks). However, if debtor objects within one month from service of the order by a bailiff («Huissier de Justice») or one month after the first enforcement measure when the order was not notified in personam, the case is then referred to the commercial court, on the merits of the claim (see below proceedings on the merits before the commercial court).*
  - *«Référé provision» (summary proceedings): These are adversarial proceedings (i.e. this time in presence of debtor) which are only eligible for non-disputed claims, and which are brought before the chairman of the commercial court where debtor is located. This is a fast procedure (few weeks if few days).*
  - *«Procédure au fond» (proceedings on the merits): These are adversarial proceedings (i.e. in presence of debtor) which are brought before the commercial court where debtor is located, when basically the claim is disputed. The approximate length of such proceedings is 1 to 2 years.*

- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  «Tribunal de commerce» (commercial court) and «Président du Tribunal de commerce» (chairman of the commercial court).

- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]

  Litigators usually ask for the conversion into euros of the claim expressed in foreign currency.

- Is election of domicile required when acting for a foreign creditor? Yes [x] No [ ]

- Do you need a court representative? Yes [ ] No [x]

  Lawyers registered with a French bar do not need a court representative before commercial courts, but in practice they ask another lawyer to represent the creditor to procedural hearings as the commercial court may be situated in a remote place, and it would not be cost effective to ask the lead counsel to go and attend each court conference.

- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]

- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiff's costs for serving the complaint, if any; court representative, etc.)
  - *For«injonction de payer»: circa €130 (court costs and bailiff's fees).*
  - *For«référé provision»: circa €170 (court costs and bailiff's fees).*
  - *For«procédure au fond»: circa €170 (court costs and bailiff's fees).*
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [x]
- Are written statements (affidavits) admitted? Yes [x] No [ ]
- What documents are requested to proceed?

  Basically, the documents listed under question 1. above.
- Any formalities to fulfill for bringing an action?

  Pay the above costs and register the claim with the court after service of the summons by a bailiff upon debtor (for «référé provision» and «procédure au fond»).For "injonction de payer" the creditor just has to pay the court costs for filing the application (no need to pay bailiff fees for filing the application with the court as these are ex-parte proceedings. It is only when the creditor has obtained the court order that it has to retain a bailiff for serving the order upon debtor).
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]
- Are Discovery proceedings allowed? Yes [ ] No [x]

  However, upon motion of one party, the court may order the other party to produce documents.
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [x] No [ ]
  If "Yes": describe the rules:

  Only limited costs are reimbursed (basically court costs and bailiff's fees). Other costs (such as travel costs, translation costs, etc.) are reimbursed only if the court orders it in its judgment.
- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

  The court has to decide.
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  The amount awarded by courts for lawyer's fees is discretionary. It is up to the court to decide which amount to award, if any. From experience, French courts rarely award to the winning party the full amount of lawyer's fees actually incurred by the creditor, so that creditors basically litigate at their own expense in France, as amounts awarded in this respect are not very high(though the situation is changing in the creditor's favor).
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  As above mentioned, the courts award discretionary amounts.
- What is the standard time frame for obtaining a judgment? ____ Months

- *For «injonction de payer» and «référé provision»: few weeks*
- *For «procédure au fond»: 12 to 24 months*

- What is the time frame for lodging a recourse against the judgment rendered by the court?
  - *For «référé provision»: 15 days as from the notification*
  - *For «procédure au fond»: 1 month as from the notification*
  - *For "injonction de payer", there is no possibility to lodge a recourse when the application is rejected by the chairman of the court.*

  (For foreign parties, the above delays are extended by a further 2 month-period of time).

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  For being enforceable, judgments need not necessarily to be final, provided that the court has decided in its judgment that it could be enforced provisionally.

  Usually, it is not necessary to provide securities for enforcing a judgment, unless the court, in its judgment, has decided so.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  «Huissiers de Justice» (bailiffs) have a monopoly for enforcement of judgments in France.

- Costs of enforcement?

  Essentially, these are bailiffs' costs which are set by the law. Most of those costs are to be repaid by debtor, so that this is only, on the creditor's part, an advance of funds (provided debtor can repay such costs). However, article A. 444-32 of the commercial code provides that the bailiff is entitled to the following contingency fee on collected funds: from €0 to €125 (11.70%); from €125 to €610 (10.73%); from €610 to €1,525 (10.24%); from €1,525 to €52,400 (3.90%); above €52,400 (3%). This contingency fee is capped at €5,540. The bailiff is nevertheless authorized to grant a maximum discount of 10% on the tranche exceeding €52,400 (article A. 444-52, 1° of the commercial code). Such contingency fee has to be paid by the creditor to the bailiff and cannot be recouped against debtor.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Basically, all the company's assets can be seized, unless otherwise specified by the law or unless they are already frozen by a prior seizure. As an example, the law states that once debtor is in bankruptcy, one cannot freeze assets, in connection with claims incurred prior to the opening of bankruptcy.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  There is no review by the French court of the substance of the foreign judgment given in another Member State, and proceedings are brought in the absence of the party against whom enforcement is sought (i.e. "ex-parte" procedure).The judgment given in the Member State of origin must be enforceable.

- What are the documents required?

  Copies of the judgment and the certificate (issued under article 54 of the Regulation and certifying that the judgment is enforceable in the Member State of origin) given in the Member State of origin satisfying the conditions necessary to establish their authenticity, and translations. Such certificate must be served upon the defendant, along with the judgment if the latter has not already been served.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  "Greffier en chef" (chief clerk of the court) of the «Tribunal de Grande Instance» (civil court) where debtor is located in France.

- Costs?

  No cost (save translation costs).

- Time frame for obtaining recognition and enforcement from your courts?

  Few weeks depending on the court backlog.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted after 10 January 2015:

- Conditions and test?

  On 10 January 2015, the «exequatur» procedure, described under 7.1. above, ceased to apply in the EU for proceedings instituted on or after that date, so that an enforceable judgment given in another Member State is directly enforceable in France without the necessity to domesticate it in France.

  As in the past, the judgment needs obviously to be enforceable in the Member State of origin.

  Both the judgment and the certificate issued as per article 53 of the Regulation (see below) must have been notified to the defendant.

- What are the documents required?

  The following documents must be handed over to the bailiff in charge of enforcing the judgment in France: copies of the judgment and the certificate (issued under article 53 of the Regulation and certifying that the judgment is enforceable in the Member State of origin) given in the Member State of origin satisfying the conditions necessary to establish their authenticity, and translations.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  No longer applicable.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU member states, Iceland, Norway and Switzerland):

- Conditions and test?

  Same as under 7.1. above.

- What are the documents required?

  Same as under 7.1. above.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Same as under 7.1. above.

- Costs?

  Same as under 7.1. above.

- Time frame for obtaining recognition and enforcement from your courts?

  Same as under 7.1. above.

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  Foreign judgment needs to be enforceable in its country of origin, and there is no review in France of the substance of the foreign judgment.

  Three-prong test for obtaining recognition and enforcement in France of a judgment given outside of a EU Member State, Iceland, Norway or Switzerland (absent of other international conventions):

  - *Jurisdiction of the foreign court over the dispute*
  - *Absence of fraud in obtaining the foreign judgment*
  - *Compliance of the foreign judgment with French international public policy rules and due process*

- What are the documents required?

  An authenticated copy of the foreign judgment and evidence that the foreign judgment is enforceable in its country of origin.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  «Tribunal de Grande Instance» (civil court).

- Costs?

  No specific costs (save translation costs).

- Time frame for obtaining recognition and enforcement from your courts?

  This is a lengthy process (one to two years), as these are adversarial proceedings.

9. Are there any special remarks on the court system in your country?

There is no jury system in France (like in the US) for commercial cases, and commercial courts are solely composed of lay judges (not professional judges).

***10.* Assignment of claim:**

This is an important issue since an assignment of claim may prove to be a valuable route for the creditor for possibly monetizing its claim if it can find a buyer. Besides, assignment of claims may be a strategy for groups of companies willing to centralize/consolidate all or part of their claims for example in a shared service center in particular with a view to possibly obtaining money judgments before a single forum.

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  The answer is "yes": claims may be assigned under French law.

  The consent from the debtor does not have to be obtained for a claim to be assigned unless it was stipulated that the claim could not be assigned.

- What are the conditions and formalities for assigning a claim?

  An assignment of claim must mandatorily be in writing between the seller and the buyer. If this is a sales contract (and not an assignment of claim as a security instrument), a price will have to be agreed upon between the seller and the buyer.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  As from the date of signature of the deed of assignment, and by operation of law, the claim (e.g. a money judgment) as well as all rights and guarantees which are linked to it are transferred from the seller/creditor to the buyer/assignee. The seller has to hand over all information/documents grounding the claim to the buyer, give guaranties (in particular as to its existence) regarding the claim (save if the buyer bought it at its own risks or knew that it was not certain) , and the buyer has to pay the purchase price agreed between the parties.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  Until October 1st, 2016, assignment of claims had to be served upon the debtors by a French bailiff or accepted by the debtors in writing in an authenticated instrument (basically drafted by a French notary), which was cumbersome. As from October 1st, 2016, these formalities have been cancelled and if the debtor has not already agreed to the assignment of claim, it simply needs to be notified to the debtor or acknowledged by it for being enforceable against it.

  The debtor has to pay the claim to the purchaser and not to the creditor/seller (otherwise the debtor would do it at its own risks and would face the liability of having to pay twice the claim, i.e. to the creditor and to the purchaser…).

  However, the debtor is entitled to raise as against the purchaser all objections relating to the claim (e.g. set off, nullity, etc.) and to its relationships with the seller/creditor incurred prior to the moment the assignment of claim became enforceable against it (e.g. terms of payments or discounts granted by the seller, etc.).

  Besides, a peculiarity of French civil law called "retrait litigieux" allows the debtor to pay to the purchaser the price (plus costs, reasonable expenses and interest) paid by the purchaser to the seller of the claim in the event where the claim is disputed (i.e. a suit over

the merits of the claim was brought prior to the assignment of claim) and be released from the claim. Hence, "retrait litigieux" may have drastic consequences if the claim was assigned for a very low and discounted price and if the assignee was expecting to claim from the debtor the full and initial amount of the claim…

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  As from the date of signature of the deed of assignment, and by operation of law, the claim can be opposed to third parties other than the debtor.

October 10, 2019

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GERMANY

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [**x**]
- Purchase order — No [**x**] Yes [ ]
- Acknowledgment of purchase order — No [**x**] Yes [ ]
- Proof of delivery — No [ ] Yes [**x**]
- Invoice — No [ ] Yes [**x**]
- General terms and conditions — No [**x**] Yes [ ]
- Exchanges of correspondence — No [**x**] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [**x**]
- Other documents? — No [**x**] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [x] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?

  The handling fee of the lawyer according to the German Attorneys Remuneration Act (Rechtsanwaltsvergütungsgesetzt) or EUR 40,00 according to the European Late Payment Order
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [x] Yes [ ]
  If "Yes": any consequences?

  If there was no out of court collection or other discussion of the debt between creditor and debtor prior to filing a law suit the creditor has to bear all costs of the proceeding if debtor acknowledges and pays the debt immediately after filing the law suit.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [**x**] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

Payment claims resulting from transportation contracts may have a shorter statute of limitation depending on the rules the transport is subject to (i.e., CMR, Montreal Agreement, etc.).

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [**x**] 10 [ ] 11 [ ] 12 [ ] %

(points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [x] Yes [ ]
  If "Yes": any form?

  But the court or the other party can request the presentation of a power of attorney

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  Mahnbescheid = Court Order. Form letter by lower regional court (Amtsgericht).- If not disputed by debtor it becomes an enforceable title.

  Europäischer Zahlungsbefehl (European Payment Order) pursuant to Regulation (EC) No. 1896/2006 dated 12 December 2006; the European Payment Order can be obtained from the German court in Berlin-Wedding for claims against debtors in other EU-member states; if the debtor does not object the European Payment Order can directly be enforced in each EU-member state.

  European Small Claims Procedure pursuant to Regulation (EC) No. 861/2007 dated 11 July 2007; for claims who do not exceed EUR 5.000,00 the regulation provides a short written procedure. The judgement resulting from such procedure is directly enforceable in all EU-member states.

  Klageverfahren - Ordinary court procedure at Amtsgericht (lower regional court) for cases up to EUR 5.000,00 (no requirement to be represented by a lawyer before the court) above EUR 5.000,00 at higher regional court (Landgericht). The parties have to be represented by a lawyer. Court chooses form of procedure: preliminary written procedure or early hearing. The written procedure includes a deadline of normally two weeks and if defendant does not react leads to an enforceable title (default judgement).

  Against decision of Amtsgericht and Landgericht Appeal is possible, but has to be accepted by the Court of Appeal.

  Against a decision of the Court of Appeal a recourse maybe possible to the Federal Court of Civil Procedure (Bundesgerichtshof) and under special circumstances a complaint can be filed with the institutional court (Verfassungsgericht).

- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  Amtsgericht (lower regional court)

  Landgericht (higher regional court): this has special chambers for commercial matters, Kammern für Handelssachen

  Oberlandesgericht (Court of Appeal)

  Bundesgerichtshof (Supreme Court)

  Verfassungsgericht (Constitutional Court)

- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]

- Is election of domicile required when acting for a Yes [ ] No [x]

foreign creditor?

- Do you need a court representative? Yes [ ] No [x]

  There is no special court representative in Germany. The only requirement is that in procedures before the Landgericht (higherregional court), before the Oberlandesgericht (Court of Appeal)and before the Bundesgerichtshof (Supreme Court) the parties have to be represented by lawyers. In cases before the Amtsgericht (lower regional court) no representation is required.

- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]

  Only if requested by the other party the foreign plaintiff has topost a bond (plaintiffs from an EU-member state or a member state of the Agreement on the European Economic Area do not need to post a bond).

- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  No additional costs, only the court fees which have to be paid in advance to the court (amount of court fees depends on the value of the case, see fee schedule in the Court Costs Act, Gerichtskostengesetzt – GKG).

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [x] No [ ]

- Are written statements (affidavit) admitted? Yes [ ] No [x]

- What documents are requested to proceed?

  All documents necessary to proof the claim (i.e., contract, invoices, proof of delivery and other documentation)

- Any formalities to fulfill for bringing an action?

  Payment of the court fees.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]

  But in case of self explanatory documents, i.e. invoices,or small documents in English language, i.e. e-mail correspondence, German judges do often not request a translation.

- Are Discovery proceedings allowed? Yes [ ] No [x]

- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [x] No [ ]
  If "Yes": describe the rules:

  Sec. 91 German Code of Civil Procedure (Zivilprozessordnung) provides that the party that has not prevailed in the dispute has to bear the costs of the legal dispute. That comprises the court fees, the lawyer fees of the opponent, travel costs, costs for witnesses, translation costs etc.

- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

  The court issues a cost resolution (Kostenfestsetzungsbeschluss).

- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  See above, Sec. 91 German Code of Civil Procedure, all fees according to the German Attorneys Remuneration Act (Rechtsanwaltsvergütungsgesetz) will be reimbursed.

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  See above, same rules

- What is the standard time frame for obtaining a judgment? 12 Months
  It can also be only several weeks if defendant does not react

  within the period set by the court in a procedure in writing.

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  One month from the date the judgement has been served and one additional month to give the reasons. The procedure before the court of appeal itself can last more than one year.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  If not final: Enforcement against securities, for example 110 % of main claim in form of bank guarantee or deposite at the court.

  Caveat: Security enforcement is possible without security, but creditor does not receive assets or money.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Gerichtsvollzieher (bailiff)

  Vollstreckungsgericht (court competent for execution)

- Costs of enforcement?

  Bailiff fees and court fees which are fixed by law. All costs of enforcement have to be repaid by debtor.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Basically possible against all assets, rights and accounts, but German law grants debtor a minimum amount to live of. In case of insolvency of debtor all enforcement measures are on hold by virtue of law.

7. <u>Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:</u>

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  Judgement must be enforcable. The German court does not review the foreign judgement as to its substance. No "révision aux fonds".

- What are the documents required?

  Original or certified copy of the judgement and certified translation of judgement; certificate pursuant to Art. 54 of Regulation (EC) n° 44/2001 with certified translation.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Landgericht (higher regional court) at domicile of debtor

- Costs?

  Court fee and lawyer fee pursuant to fee schedule, translation costs.

- Time frame for obtaining recognition and enforcement from your courts?

  Approx. 4 to 6 weeks

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  Judgement must be enforceable in the EU Member State in which it was issued. Declaration of enforceability is no longer required. A judgement issued in an EU Member State can directly be enforced in Germany.

- What are the documents required?

  Original or certified copy of the judgement and certified translation of the judgement; certificate pursuant to Art. 53 Regulation (EU) n° 1215/2012 with certified translation.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  As said above no enforcement declaration necessary. A judgement of another EU Member State is directly enforceable; to enforce such a judgement the necessary documents listed above have to be filed with the Gerichtsvollzieher (bailiff) or the Vollstreckungsgericht (court competent for execution) depending on the enforcement measures.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  The judgement must be enforceable in the state in which it was issued. No review of the foreign judgement as to its substance.

- What are the documents required?

  Original or certified copy of the judgement and its certified translation. Certificate pursuant to Art. 54 of the Lugano Convention 2007 and its certified translation.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.
  - *Landgericht (higher regional court) of domicile of debtor*
  - *Notar (notary public) for the enforcement of public deeds*
- Costs?

  Court fee and lawyer fee pursuant to fee schedule, translation costs.
- Time frame for obtaining recognition and enforcement from your courts?

  Approx. 4 to 6 weeks

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  An enforcement judgement has to be obtained pursuant to Sec. 722 of the Code of Civil Procedure (Zivilprozessordnung) ; the enforcement judgement is granted if the foreign judgement can be recognized in Germany pursuant to Sec. 328 of the Code of Civil Procedure. The foreign judgement must be enforceable in the state in which it was issued.
- What are the documents required?

  Certified copies of the judgement and certified translation. Proof of service of process.
- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.
  - *Amtsgericht (lower regional court) for cases with a value of up to EUR 5.000*
  - *Landgericht (higher regional court) for cases higher than EUR 5.000*
- Costs?

  Court fee and lawyer fee pursuant to fee schedule.
- Time frame for obtaining recognition and enforcement from your courts?

  4 weeks up to several years as appeal and evidence procedure is possible

9. <u>Are there any special remarks on the court system in your country?</u>

No.

10. <u>Assignment of claims:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  It is possible to assign claims, also to purchase claims.
- What are the conditions and formalities for assigning a claim?

  For the sake of proof the assignment should be in writing.
- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

The claim is being assigned as it is. If the debtor has a counterclaim against the assignor, it is also valid against the assignee.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  If the assignee informs the debtor, the debtor can only fulfil the claim towards the new owner of the claim, the assignee. The debtor has no right to object to an assignment, if it is not excluded by a contract between debtor and assignor. Special rules apply to the assignment of claims of doctors, hospitals, lawyers, etc., based on their professional rules (duty to reframe from disclosing).

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  Basically yes, the assignee gets all the rights of the assignor.

October 22, 2019

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GREECE

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [x]
- Purchase order — No [ ] Yes [x]
- Acknowledgment of purchase order — No [ ] Yes [x]
- Proof of delivery — No [ ] Yes [x]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [ ] Yes [x]
- Exchanges of correspondence — No [x] Yes [ ]
- It is not necessary, but it is useful if any provided.
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [x]
- Other documents? — No [ ] Yes [ ]

  Depending on the case.

2. Out of court collection (Dunning Letter):

In Greece we call it extrajudicial payment order.

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [ ] Yes [x]
  If "Yes": What type of back-up documentation?

  Usually , copies of outstanding invoices. However, not necessarily.
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?

  Usually, the ones for drafting and serving the extrajudicial payment order.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [ ] Yes [ ]
  If "Yes": any consequences?

  It depends on the legal action you are intending to proceed with. Of course, it is preferable to send a formal payment demand, before proceeding with legal actions. However, in some cases, such as the issuing of a court payment order, the out of court demand letter is compulsory.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

It depends on the nature of the debt. The general statute of limitation for commercial debts is 5 years, but for debts based on securities, the limitation is 1 year and especially for check is 6 months.

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

Greek law does provide for statutory interest. Statutory interest is the rate of interest, i.e. the percentage of the capital for a stated period of time, prescribed directly by the law. The most common form of statutory interest is interest on arrears, i.e. the interest that the debtor owes from the moment he or she is in default. Articles 301, 346 529, 720 etc. of the Civil Code also provide for other cases of statutory interest. The rate of statutory interest due for late payment is usually set at two percentage points above the maximum contractual interest rate, which was previously determined by decision of the Governor of the Bank of Greece, and was harmonised in 2001 with the corresponding interest rate of the European Central Bank (Act 47/2000 of the Monetary Policy Council, Article 3(2) of Law 2842/2000). Currently, it amounts to 7.30 %.

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. Court actions:

- Power of attorney? No [ ] Yes [x]
  If "Yes": any form?

  There is a standard form that it is drafted by the attorney at law and has to be signed by the mandate.

  List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedingsFirstly, we send a formal payment demand or extrajudicial payment order (εξώδικο), secondly we bring the action to the court (αγωγή) and the last step is to enforce the judgment (εκτέλεση της απόφασης).

- List of the names of the courts, in your language and in English translation, which will hear B2B claims.

  According to Greek law, there are three first instance courts that hear the claims.

  The first one, named Country Court (Ειρηνοδικείο), is competent for claims up to 20.000 €. The second one, named Single Member Court of First Instance (Μονομελές Πρωτοδικείο), is competent for claims over 20.000 € and up to 250.000 €. The third one, named Multi Member Court of First Instance (Πολυμελές Πρωτοδικείο) is competent for claims over 250.000 €.

- Can you claim the payment in a foreign currency before your national courts? Yes [ ] No [x]

  However you can claim the equivalent of the foreign currency in Euros at the date of filling the claim.

- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [x]

The general provision foresees that the court which is competent to hear the case is where the defendant's domicile is.

- Do you need a court representative? Yes [x] No [ ]
- Do you need to post a bond when bringing proceedings? Yes [x] No [ ]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  The costs for instigating proceedings are stamp duties, the prepayment promissory receipt for the minimum of the lawyers' fees and bailiff's costs for serving the lawsuit.

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [x]

  After the revision of the Civil Procedure Code (Law 4335/2015, valid as from 1.1.2016), the procedure before the civil courts is written and no hearing with witnesses' examination takes place. However, if necessary the parties can submit with their pleadings, affidavits (sworn statements) of up to 5 witnesses. For the counter-briefs the number of affidavits allowed is up to 3.

- Are written statements (affidavit) admitted? Please see above. Yes [x] No [ ]
- What documents are requested to proceed?

  All documents, copies or originals, supporting the claim are necessary such as checks, invoices, etc and if necessary affidavits.

- Any formalities to fulfill for bringing an action?

  It is always compulsory to submit the legal documents with the relevant stamp duty, the court fees and the prepayment promissory receipt for the minimum of the lawyers' fees.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]
- Are Discovery proceedings allowed? Yes [ ] No [x]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No [x]
  If "Yes": describe the rules:

  Court usually decides freely the way that the costs are allocated between the parties.

  However, due to the fact that the lawyers' fees are negotiated free with the mandate, courts usually allocate the minimum lawyers' fees, as set with the above mentioned prepayment promissory receipt.

- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

  The court decides on such reimbursement.

- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  Only a part of them. What usually happens is the same as the answer on the costs above.

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

It is discretionary for the court to decide on this, but in most court cases the costs are imposed to the party who was defeated.

- What is the standard time frame for obtaining a judgment? *6-18 Months*
- What is the time frame for lodging a recourse against the judgment rendered by the court?

  A judgement can be appealed within 30 days if the appellant resides in Greece, 60 days if he resides abroad or his residence is unknown, starting from the day of serving the judgment. If the first degree decision is not served, then the time frame for lodging an appeal is 2 years, starting from the day of the pronouncement of the judgment.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  The decision needs to be final in order to come into force. In special cases interim enforcement is allowed (provisory enforcement).

  After the adoption of the decision, the creditor has to do the following proceedings:

  - *seizure of assets or property of the debtor and*
  - *judicial sale by auction*
- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  The enforcement officers are the Bailiff (Δικαστικός επιμελητής) and the notary public (Συμβολαιογράφος).
- Costs of enforcement?

  Depending on the amount of the debt and the kind of enforcement. For example, costs are different depending on whether the enforcement takes place in movables or in real estate.
- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  There are restrictions on the assets which are allowed to be enforced. The personal assets, such as clothes, food, furniture, books, etc. and everything that is useful for surviving are excluded from seizure.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  1. The Brussels Convention and Regulation 44/2001 lay down conditions for the recognition and enforcement of foreign enforcement orders in Greece. Thereunder, all foreign judgments are recognized by the Greek Courts, only if they are not contrary to public policy in the State addressed, having been duly served to the defendant in due time and are not inconsistent with another decision published in the State addressed, between the same parties. Almost similar restrictions are adopted by Article 905 of the Code of Civil Procedure in Greece.

However, apart from the above, in accordance with Regulation 44/2001 that has introduced the concept of a European Enforcement Order, the procedure of enforcement of EU judgments is simpler than the Brussels Convention and the applicable local law.

Specifically, the enforcement acknowledgement of exequatur of foreign judgments in the executing State is repealed. The titles of enforcement may be judgments, court settlements or public documents.

So, it is at the discretion of the creditor to follow the one or the other legal procedure.

- What are the documents required?

  The documents that are usually required for the first legal procedure are the following:

  - *The foreign court's judgment certified that it is enforced and translated legally.*
  - *Confirmation that the decision is irrevocable and final.*
  - *A Greek certificate that the parties have never applied before to the Greek courts for the same case.*

  The conditions for recognizing a title as a European Enforcement Order are the existence of an enforceable title, uncontested claims and any procedures certifying that the title is a European enforcement order. The certification has to come from the origin country.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The Court of the First Instance (Πρωτοδικείο) is the competent court to decide on such cases.

- Costs?

  Translation and enforcement costs. The enforcement costs are, however, added to the claim.

- Time frame for obtaining recognition and enforcement from your courts?

  It takes approximately 6-10 months.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  With the enforcement of Regulation (EU) n° 1215/2012, as from 10/01/2015, the exequatur procedure is abolished. This means that any enforceable judgment rendered in an EU Member State will be directly enforceable, without the need to satisfy the conditions described under 7.1 above.

- What are the documents required?

  The documents required are the following:

  - *a copy of the judgment which satisfies the conditions necessary to establish its authenticity,*
  - *the certificate issued pursuant to Article 53 of the Regulation, certifying that the judgment is enforceable and containing an extract of the judgment as well as, where appropriate, relevant information on the recoverable costs of the proceedings and the calculation of interest.*

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

The new Regulation introduces an innovation on this matter, as from now on, the Bailiff (Δικαστικός Επιμελητής) is the officer competent to decide on domestication of EU judgment, as the officer empowered in Greece to proceed to forced execution.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  Same as under 7.1 above.

- What are the documents required?

  Same as under 7.1 above.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Same as under 7.1 above.

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  According to article 905 of the Code of Civil Procedure in Greece, a foreign judgment can be enforced in Greece if it is declared enforceable by a decision of the court for the area where the residence of the debtor is.

- What are the documents required?

  That depends on the terms defined in international conventions, bilateral agreements and regulations, but in general the documents that are usually required are the following:

  - *The foreign court's judgment certified that is enforceable and translated legally.*
  - *Confirmation that the decision is irrevocable and final.*
  - *A Greek certificate that the parties have never applied before to the Greek court for the same case.*

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  The court of the First Instance (Πρωτοδικείο) is the competent court to decide on such cases.

- Costs?

  Court costs.

- Time frame for obtaining recognition and enforcement from your courts?

  It takes around 6-12 months.

9. <u>Are there any special remarks on the court system in your country?</u>

Usually, the most of court judgments are issued with delay.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes, it is. A party may assign the rights and claims arising from a contract to a third party through the procedure of assignment of claims, without the consent of the other party (the debtor), unless the parties have agreed otherwise (articles 455–470, Civil Code). However, the assignment becomes effective for the debtor only after receiving notification from the assignor (article 460, Civil Code). Moreover, any objection against the assigned claim, based on grounds that already existed before the notification of the assignment can be raised by the debtor towards the assignee. Assignment to or assumption of contractual obligations by a third party requires consent of the other contracting party (articles 471–479 Civil Code).

  Concerning the restrictions, we should mention that the claims that are not subject to attachment cannot be assigned (article 464 Civil Code). Furthermore, a claim which by reason of the nature of the performance is closely connected with the person of the debtor cannot be assigned (article 465 Civil Code).

  Finally, cannot be assigned a claim in respect of which a creditor and the debtor have agreed that it shall not admit of assignment. However, the debtor may not rely on such agreement as against the assignee if the assignee has acquired the claim on the basis of a document which did not contain a stipulation of non-assignability (article 466 Civil Code).

- What are the conditions and formalities for assigning a claim?

  The assignor must be the creditor. Transfer of a claim by a third party and not the holder of the right (creditor) is not valid, even if the assignee was in good faith, which gives exceptions, for example in the case of approval by the creditor.An assignor shall be obliged to furnish the assignee with the necessary information for the pursuit of the claim and to deliver to the assignee documents in his possession that establish the claim. If part of the claim has been assigned shall be delivered duly certified copies of such documents, the right of the assignee being reserved to demand the presentation of the originals (article 456 Civil Code).

  According to article 460 Civil Code, an assignee shall not acquire any right in regard to the debtor and third parties, before the assignee or the assignor have notified the assignment to the debtor.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)?

  In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)? The assignment of claim brings about a change of the person of the creditor. The assignor (seller) ceases to be the creditor and the new and sole creditor is now the assignee (buyer). That means that assignment's immediate legal effect is the loss of his claim and the disposition of it (transfer) to the assignee. The assignment does not entrain a change of the subject of the legal relationship/situation/dispute. Therefore, the assignee can now file a lawsuit against the debtor, etc.

  By an assignment are transferred any mortgages, guarantees, pledges or other accessory rights securing the claim, as well as the privileges which in enforcement or bankruptcy proceedings are connected with the nature of the claim or of the guarantee. Privileges attaching to the person of the creditor are not transferred (article 458 Civil Code).

  Unless otherwise agreed by an assignment are also transferred the arrears of interest due (article 459 Civil Code).

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The debtor has in regard to the assignee (buyer) the same obligations as those that he had towards the assignor (article 459 Civil Code). The claim is enforceable against the debtor. The debtor may set up as against the assignee all the pleas that he could invoke as against the assignor prior to the notification (article 463 par. 1 Civil Code).

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor?

  Can the assignment of claim be also opposed to such third parties?Once the notification of the assignment has been done, the assignee (buyer) is the sole and unique creditor of the claim. From this moment, the assignee has the same rights as the ex creditor/assignor (seller), which also applies to his relationships with the third parties.

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1. Necessary documents for the lawyer to start the case

- Contract No [ ] Yes [**X**]
- Purchase order No [ ] Yes [X]
- Acknowledgment of purchase order No [ ] Yes [X]
- Proof of delivery No [ ] Yes [X]
- Invoice No [ ] Yes [X]
- General terms and conditions No [ ] Yes [X]
- Exchanges of correspondence No [ ] Yes [X]
- Know Your Customer checking (anti-money laundering regulations) No [ ] Yes [X]
- Other documents? No [X] Yes [ ]

In general, it cannot be told what kind of documents are necessary, however, it can be stated that the more documents proving the claim is at the lawyer's disposal, the better. Not all the documents that are marked with "x" are essential, but the existence and validity of the claim has to be determinable from the documents that are provided by the client.

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? No [ ] Yes [x]
  If "Yes": a special form?

  In general, the creditor may send the dunning letter on his/her/its own behalf, in which case, of course, no power of attorney is necessary. However, in case a lawyer, as legal representative is involved in a case, the relevant bar regulations and the laws governing the activity of the attorneys shall be taken into account, according to which an attorney may represent his/her client only with a power of attorney. The power of attorney shall be recorded in writing, and is shall be signed by the client as principal and also by the lawyer indicating that he/she has accepted the power of attorney.
- Format of the demand letter: any regulation from your bar? No [X] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? No [X] Yes [ ]
  If "Yes": What type of back-up documentation?

  Again, the dunning letter is only an informal action, therefore no attachment requirements are set out by the laws. However, as it was stated at question 1, the more documents proving the claim is attached to the letter, the better.
- Can you claim recovery costs out of court? No [ ] Yes [X]
  If "Yes": which?

  It is subject to negotiations and agreement; no legal rules are required to be applied.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? No [X] Yes [ ]
  If "Yes": any consequences?

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [**X**] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

*According to Act V of 2013 on the Civil Code (hereinafter: **Civil Code**), the interest rate shall be the same as the Hungarian central bank base rate, or, if the monetary debt is to be repaid in a foreign currency, the interest rate shall be the same as the base rate of the issuing central bank, or in absence of this, the financial market rate. For the purposes of calculating the interest, the interest rate in effect on the first day of the calendar half-year affected shall apply to the entire period of the given calendar half-year.*

Concerning B2B claims, the default interest is the above interest rate plus 8 %.

5. Court actions:

- Power of attorney? No [ ] Yes [X]
  If "Yes": any form?

  The power of attorney shall be recorded in writing, and is shall be signed by the client as principal and also by the lawyer indicating that he/she has accepted the power of attorney. It is important that the case shall be identified precisely in the document.

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  *1) Although technically it is not a court proceeding since it is implemented by a public notary, the first procedure that has to be mentioned is the **payment order procedure** ("fizetési meghagyásos eljárás"). In the payment order procedures monetary claims up to HUF 30,000,000 may be asserted. Below HUF 3,000,000 the payment order procedure is mandatory. Briefly, the steps of the procedure are as follows. First, the claimant files a request for issuing a payment order. If the public notary finds that the request is in line with the formal requirements (the public notary does not examine the amount and the legal title), it issues the payment order and sends it to the debtor. After this, the debtor will have a 15-day deadline to contradict to the claim, in the absence of which, the payment order becomes final and binding, thus enforceable. In case the debtor contradicts to the payment order, the claimant will have an additional 15-day deadline to submit a petition to the court, as a result of which, the procedure turns into a civil lawsuit.*

  2) In case of a claim exceeding HUF 3,000,000, the claimant may file a petition to the competent court, as a result of which, the claim will be subject of a civil lawsuit ("polgári per").

- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  1) ***public notary** ("közjegyző") – Public notaries have competence for the payment order procedures.*

  2) ***district court** ("járásbíróság") – District courts have competence for the claims between HUF 3,000,000 and HUF 30,000,000.*

3) ***regional court*** *("törvényszék") – Regional courts have competence for the claims exceeding HUF 30,000,000, and they also act as courts of second instance in cases that were brought before the district courts as courts of first instance.*

4) ***high court or court of appeal*** *("ítélőtábla") – Courts of appeal act as courts of second instance in cases that were brought before the regional courts as courts of first instance.*

5) ***Curia*** *("Kúria") – Curia, as the Hungarian supreme court, decides on the judicial reviews of the cases that were handled by the lower courts as an extraordinary remedy.*

- Can you claim the payment in a foreign currency before your national courts? Yes [X] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [X] No [ ]
- Do you need a court representative? Yes [ ] No [X]
- Do you need to post a bond when bringing proceedings? Yes [ ] No [X]

As a general rule, no, however, with some exceptions, a plaintiff whose domicile, seat or habitual place of residence is not in a member state of the European Union, in a state party to the Agreement on the European Economic Area, or in another country regarded as the same according to an international convention, shall, at the request of the defendant, provide security covering the litigation costs of the defendant.

- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

Upon the initiation of a procedure the procedural duty shall be paid. The amount of the duty to be paid in order to initiate a lawsuit is 6% of the value in dispute but not less than HUF 15,000 and not more than HUF 1,500,000. The fee for initiating a payment order procedure (that is called a fee, although it is similar to duties) is 3% of the claim plus HUF 1,600 per parties in the case, but not less than HUF 8,000 and not more than 300,000. In case the payment order procedure turns into a lawsuit, the procedural fee has to be supplemented by the initiating party to the 6 % duty.

During the procedures, other costs may arise (e.g. expert's fee and costs; costs of witnesses etc.). Act CXXX of 2006 on the Code of Civil Procedures (hereinafter: ***Civil Procedure Code****) does not provide an exhaustive list of the costs that may arise, but only gives the general definition of the litigation costs, which is the following: Litigation costs shall include all costs necessarily incurred by a party in the course of or prior to the action, in causal relation to the enforcement of the right subject to the action, including any loss of earnings necessarily incurred due to appearing before the court.*

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [X] No [ ]

Witnesses are only one method of proving the facts of the case. Providing witnesses as evidence is quite common but in general, they do not have any specific significance compared to other methods.

- Are written statements (affidavit) admitted? Yes [ ] No [X]
- What documents are requested to proceed?

The following shall be attached to a petition in all cases:

a) a power of attorney (in case of legal representation),

b) the evidence identified in the petition, and the documents required by law in case of applying for legal aid or if the litigation costs are reduced by law.

- Any formalities to fulfill for bringing an action?

  For the cases, in which legal representation is required (which is the general rule), the Civil Procedure Code sets forth several strict formal rules the petitions have to meet. In case the petition does not meet these requirements, the court rejects the petition.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [X] No [ ]

- Are Discovery proceedings allowed? Yes [ ] No [X]

- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [X] No [ ]
  If "Yes": describe the rules:

  As a general rule, the losing party shall bear all litigation costs of the winning party. It is important that only those costs are taken into account that have been levied by the advancing party during the procedure by indicating them on a form that is required to be used.

- Does the court have to decide on such reimbursement or is it automatic? Yes [X] No [ ]

  The court decides on the bearing of the costs in its final decision whether it is a judgement or another decision (e.g. termination of the lawsuit).

- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [X] No [ ]
  If "Yes": describe the rules:

  It is possible to have all lawyer's fee reimbursed; however, the court may decrease the fees in case it determines that the levied fee is not in proportion with the actually performed work. As it was mentioned in the previous question, the court shall decide on the lawyer's fee as well.

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [X] No [ ]
  If "Yes". How does it work?

  According to the general rule that was mentioned above, the losing party shall bear all litigation costs of the winning party.

- What is the standard time frame for obtaining a judgment? ____ Months

  It depends on too many circumstances, especially on the complexity of the case to give a general answer for this question.

  Payment order procedure, without contradiction, may result in an enforceable payment order within one month, but lawsuits may take from a few months up to years.

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  The general deadline is 15 days as of the receipt of the judgement.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  The general rule is that a final and binding judgement (or another decision that has the same effects, such as a final and binding payment order) is necessary for the enforcement, however, there are some cases when a judgement may be declared as preliminarily enforceable regardless of an incidental appeal (e.g. it imposes an obligation to provide maintenance payment, annuity, or another periodic service for the same purpose; it imposes an obligation against the defendant with respect to a claim that is acknowledged by him; it includes an obligation for payment of money on the basis of an obligation undertaken in a public deed or a private deed of full probative value, provided that all circumstances serving as grounds for the judgment are proven with such a deed etc.).

  The enforcement procedure is ordered to be initiated by issuing an enforceable document upon request. Act LIII of 1994 on the judicial enforcement (hereinafter: Enforcement Act) provides a quite long list of the documents that may be deemed as an enforceable document, but the most commons are the enforcement sheet issued by a court or a public notary and the documents that are sealed with an enforcement clause by a court or a public notary.

  No security is necessary.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  1) *Independent judicial bailiff ("önálló bírósági végrehajtó") – in general, this type of bailiffs handles most of the enforcement cases, their competence is the general rule. Their legal status is quite complex, they are independent legal persons who are not in the service of the courts.*

  2) *Court bailiff ("törvényszéki végrehajtó") – the main difference between court bailiffs and independent judicial bailiffs is that the court bailiffs are in service of the courts and they act only in specific cases (e.g. claims of the courts).*

  3) *National Tax and Customs Administration ("Nemzeti Adó- és Vámhivatal") – it has competence for the enforcement of tax and other public debts.*

  For specific enforcement actions, other organizations may have competence, such as the police ("rendőrség") or the land registry authority ("ingatlanügyi hatóság").

- Costs of enforcement?

  Note: the following costs are indicated with regard to the enforcement procedures conducted by the independent judicial bailiffs ("önálló bírósági végrehajtó"), considering that – as mentioned before – these procedures are the most common.

  1) *Procedural duty: 1% of the claim but not less than HUF 5,000 and not more than HUF 350,000.*

  2) *Bailiff's fee: it is determined gradually, depending on the amount of the claim. It cannot exceed HUF 1,000,000 regardless of the claim.*

  3) *Bailiff's actual costs: the cost that shall be reimbursed to the bailiff are determined by the applicable law.*

  4) *Bailiff's lump sum costs: in addition to the actual costs, the bailiffs are entitled to lump sum costs as well, the amount of which is 50 % (in certain cases 30%) of the bailiff's fees.*

  5) *Recovery commission: in case of successful enforcement, the bailiff is entitled to a certain percent of the recovered amount that is determined gradually and may not exceed HUF 4,000,000 regardless of the claim.*

6) *Fees to which the bailiff is entitled for enforcement actions taken on-sight: hourly rate, travel reimbursement, lump sum costs, the amount of which is determined by the law.*

7) *Commission to the Hungarian Chamber of Bailiffs: in case of successful enforcement, the Hungarian Chamber of Bailiffs is entitled to HUF 1,000 in case the claim was below HUF 400,000, while in case the claim exceeds HUF 400,000, the commission is 1% of the claim.*

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  As a general rule, the enforcement is universal, almost all assets of the debtor may be enforced. The Enforcement Act, however, provides an exhaustive list of the assets and property rights that are excluded from the enforcement. Without the need for completeness, such assets and property rights are, for instance, tools that are essential for the debtor to perform his/her job, certain personal belongings, one bed per debtor, refrigerator, child toys, 50% of license fee etc.

  It is also possible to request the bailiff to enforce only certain assets of the debtor such as the money on his/her/its bank account or certain percent of the debtor's salary (a certain part of the salary is excluded from enforcement).

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  In order to enforce a judgement falling within the scope of Council Regulation (EC) n° 44/2001, the recognition of the judgement and furthermore the determination of the enforceability is required.

  As per Act XXVIII of 2017 on the International Private Law (hereinafter: International Private Law Act) a foreign court decision (including of course the judgements falling within the sphere of Council Regulation (EC) n° 44/2001) shall be recognized in case

  a) the jurisdiction of the foreign court that proceeded in the case is in compliance with the applicable rules of the International Private Law Act;

  b) the judgement given is final and binding, or has equivalent legal effect (meaning formal validity, such decision cannot be appealed) as per the foreign law under which it was passed; and

  c) there is no ground for refusal.

  The causes for refusal are stipulated in the International Private Law Act as follows:

  a) Recognition of the judgement would be against the public order;

  b) The party against whom the judgement was made did not attend the proceeding, neither personally nor by proxy, because the document based on the proceeding was initially written and not delivered to the address or habitual residence of such party in a way and at such time as is appropriate to enable the party to prepare a defense;

  c) The proceedings regarding the subject of the same right originating from the same factual basis, regarding the same parties have been commenced before initiating the foreign proceedings;

d) *A Hungarian court or another authority has already resolved a final decision about the same right originating from the same factual basis, regarding the same parties; and*

e) *A court of a foreign state other than the state of the foreign court resolving the decision has already resolved a final decision about the same right originating from the same factual basis, regarding the same parties that is fulfilling the requirements of recognition in Hungary.*

In addition to the International Private Law Act's causes for refusal listed above, Council Regulation (EC) n° 44/2001 stipulates further causes. According to this law a foreign judgment resolved in an EU Member State cannot be recognized in Hungary if:

- *it is irreconcilable with a judgment given in a dispute between the same parties in Hungary;*
- *it is irreconcilable with an earlier judgment given in another EU Member State or in a third State involving the same cause of action and between the same parties, provided that the earlier judgment fulfils the conditions necessary for its recognition in Hungary;*
- *it conflicts with other jurisdiction rules of the Council Regulation (EC) n° 44/2001.*

With regard to the enforceability, the judgement shall meet the following requirements:

- *It is final and binding (or having equivalent legal effects) or subject to preliminary enforcement;*
- *It contains an obligation; and*
- *The deadline for performance of the obligation has expired.*

- What are the documents required?

  a) *the judgement itself and if it is required by the court, the translation thereof;*

  b) *the certificate as per article 54 of the Council Regulation (EC) n° 44/2001.*

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The district court ("járásbíróság") operating at the registered seat of the regional court ("törvényszék"), which has jurisdiction on the basis of the debtor's place of residence or registered seat.

- Costs?

  The recognition procedure is free of duty.

- Time frame for obtaining recognition and enforcement from your courts?

  In general, it takes a few months.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  A judgment given in one member state shall be enforceable in the other member states as well.

- What are the documents required?

  a) *the judgement itself and if it is required by the court, the translation thereof;*

  b) *the certificate as per article 53 of the Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012.*

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  No domestication is required.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  As per Act XXVIII of 2017 on the International Private Law (hereinafter: International Private Law Act) a foreign court decision (including of course the judgements falling within the sphere of Council Regulation (EC) n° 44/2001) shall be recognized in case

  a) the jurisdiction of the foreign court that proceeded in the case is in compliance with the applicable rules of the International Private Law Act;

  b) the judgement given is final and binding, or has equivalent legal effect (meaning formal validity, such decision cannot be appealed) as per the foreign law under which it was passed; and

  c) there is no ground for refusal.

  With regard to the enforceability, the judgement shall meet the following requirements:

  a) It is final and binding (or having equivalent legal effects) or subject to preliminary enforcement;

  b) It contains an obligation; and

  c) The deadline for performance of the obligation has expired.

- What are the documents required?

  a) the judgement itself and if it is required by the court, the translation thereof;

  b) the certificate as per article 54 of the Lugano Convention.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The district court ("járásbíróság") operating at the registered seat of the regional court ("törvényszék"), which has jurisdiction on the basis of the debtor's place of residence or registered seat.

8. Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:

- Conditions and test?

  The main conditions and grounds for refusal have already been mentioned at question 7.1., however regarding these kind of judgements, internationals laws (treaties, conventions etc.) might be taken into account as well, in which case such laws might stipulate additional conditions.

- What are the documents required?

  It depends on the type of the judgement and the relevant international law. In general, the judgement itself and if required so by the court, the translation of the judgement are required.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

The district court ("járásbíróság") operating at the registered seat of the regional court ("törvényszék"), which has jurisdiction on the basis of the debtor's place of residence or registered seat.

- Costs?

  Depends on the type of the judgement.

- Time frame for obtaining recognition and enforcement from your courts?

  In general, it takes a few months.

9. <u>Are there any special remarks on the court system in your country?</u>

No.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  As a general rule, the Civil Code stipulates that a creditor may assign its debts against a debtor to another person. The main exceptions are the claims that are bound to the person of the obligor, since the assignemnt of these claims shall be null and void.

- What are the conditions and formalities for assigning a claim?

  A claim may be assigned only in case the legal relationship from which the claim derives is already existing at the time of the assignment. The claim shall be identified by indicating the person of the debtor, the legal title, the amount in question and the due date of the claim or in any other way that makes it possible to identify the claim without doubt.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  According to the Civil Code, the assignee replaces the assignor concerning the claim. The assignor shall provide proper information to the assignee regarding the claim and shall also furnish any and all documents that are necessary in order to prove the existence of the claim. The Civil Code also stipulates that by the assignment the lien, mortgage, guarantee securing the claim, as well as the claim for interests gets transferred to the assignee. The assignor and the assignee shall be liable jointly and severally for the costs caused to the debtor with the assignment.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The assignor shall inform the debtor on the assignment in writing. After the delivery of this notice, the modification of the original agreement between assignor and the debtor (as the parties in the original relationship) shall be ineffective towards the assignee. In order to avoid the risk of the double fulfillment, the Civil Code sets forth that until the debtor receives a proper fulfillment instruction, it shall pay to the assignor as original creditor, while after that, the payment shall be made towards the assignee. The fulfillment instruction shall be deemed proper, if it originates from the assignor, or if the assignee is able to verify that the claim has in fact been assigned to him. If the obligor pays to the assignor, the assignor shall keep the assets received in performance of the service separate from his own assets, and shall deliver them to the assignee without delay.

In case the original claim was enforceable, the assignee may enforce it as well. The debtor may not object against the assignment.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  In general, the assignment does not have consequences or effect to third parties. Third parties do not have specific options to oppose an assignment, however, according to the general rules of contesting an agreement, even a third party may contest the assignment in case this third party has any legal interest to do so.

October 31, 2019

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ICELAND

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [x]
- Purchase order — No [ ] Yes [x]
- Acknowledgment of purchase order — No [X] Yes [ ]
- Proof of delivery — No [X] Yes [ ]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [X] Yes [ ]
- Exchanges of correspondence — No [X] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [X] Yes [ ]
- Other documents? — No [X] Yes [ ]

Even if the above documents are not essential as such to start a case, it is always better to present them to the lawyer in the beginning, and they will be essential if the claim is disputed.

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [ ] Yes [x]

  The Act on Debt Collection no. 95/2008 regulates the format/mandatory content of the demand letter. See further:

  http://www.althingi.is/lagas/nuna/2008095.html

  Regulation on the Debt Collection Cost no. 37/2009 as amended with regulation no. 133/2010

  http://www.reglugerd.is/interpro/dkm/WebGuard.nsf/key2/037-2009
- Has back-up documentation to be attached to the demand letter? — No [x] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [X]
  If "Yes": which?

  It depends in every case

  The creditor can be entitled to recovery costs according to fixed terms ,,innheimtuþóknun" but the creditor must be able to prove the accrued cost the wants recovered from debtor.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [ ] Yes [X]
  If "Yes": any consequences?

  It is compulsory to start with out of court collection activities, not doing so can (and will) affect the recovery cost one can claim before court. Moreover, the court might dismiss the proceedings.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 **[X]** 5 [ ] 6 [ ] 10 [X] 15 [ ] 30 [ ]

The general rule is that claims are barred by a prescription period after four years from the date giving rise to the claim. There are various exemptions to the rule according to the Act on Nullification. The statute of limitations for claims raising from a loan from a financial institution is normally 10 years.

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

1 [ ] 2 [ ] 3 [ ] 4 [**X**] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [**X**] 12 [ ] **%**

The statutory rate on claims in Iceland is irrespective of European Base Rate. Currently 11,00%. The Central Bank of Iceland determines its own interest rates and interventions in foreign exchange, and money markets. The statutory rate is governed by the Icelandic Interest Act (Lög um vexti og verðtryggingu No. 138/2001) and it depends on the nature of the claim. The rate is dependent on the decisions of the Central Bank of Iceland.

5. Court actions:

- Power of attorney? No [X] Yes [ ]
  If "Yes": any form?

  Normally not required, unless the judge or the opposing party requests it, and it has been increasing over the last years.

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  There exists no "fast track" or "small claim´s court" in Iceland or different proceedings, irrespective of the amount or nature of the commercial claim in question. The only variable is that in undisputed cases or where the debtor/defendant does not attend to court when the case is recorded as then it goes faster.

  Legal proceedings before the District Courts – courts of first instance):

  The summon is served by official summoners (one in each postal code so they are quite familiar to the inhabitants), court date for legal recording of the case. If the claim is disputed the debtor/defendant gets a couple of weeks to prepare a written objection. The time limit can be extended upon the judge´s decision if requested. Then the judge summons both parties to appear for a preliminary hearing where further evidence or lack of documents is discussed, and the judges tries to have parties to settle the case. If there is no settlement or discussion a date for a pleading is set, given that all documents have been put forward and/or if there is no need for translation of documents. Otherwise a time limit is given to obtain a translation of documents. The final date for the trial depends on the availability of the judge that has been given the case and court dates available (court rooms). Judgment should normally be rendered within 3 months from the oral hearing but can be longer. After the judgment has been rendered it is possible to appeal to the higher court – Landsrettur.

- List of the names of the courts, in your language and in English translation, which will hear B2B claims (same court for both B2B–B2C and C2C)

Héraðsdómur (District Court) – one in each county.

Landsréttur (The Higher Court)

Hæstiréttur (The Supreme Court)

- Can you claim the payment in a foreign currency before your national courts? Yes [X] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [X]
- Do you need a court representative? Yes [X] No [ ]
- Do you need to post a bond when bringing proceedings? Yes [ ] No [X]

  It depends, the opposing party can demand a bond if he proofs on certain conditions (regarding the financial status of the plaintiff)
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  Serving cost for the summoner, court cost (recording fees) min. 19.000 ISK to 313.000 ISK depending on the amount in question (19.000-35.000 ISK is most common)
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [X] No [ ]

  Not exactly like in the US. Icelandic courts do not allow "expert witnesses", only actual witnesses are allowed.
- Are written statements (affidavit) admitted? Yes [ ] No [X]
- What documents are requested to proceed?

  All documents supporting the claim

  Depends in each case, there are no formal requirements but evidently all documents supporting the claims should be put forward
- Any formalities to fulfil for bringing an action?

  No, but a demand letter is strongly advised and will affect legal fees.
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [X] No [ ]
- Are Discovery proceedings allowed? Yes [ ] No [X]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [X] No [X]

  All cost should be reimbursed to the winning party according to law, but it is upon the judge´s decision and often it does not cover the real cost.
- Does the court have to decide on such reimbursement Yes [X] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [X] No [ ]

  The judge in each case will decide on the costs, normally the cost awarded does not cover the actual cost. In undisputed claims the Court will generally award fixed cost that is set according to a tariff based on the amount of the debt in question. These fixed costs normally do not cover the actual cost either.

In disputed claims the costs are normally awarded to the winning party. Generally, it is a portion, sometimes all fees. The Court takes various factors into consideration when deciding on the amount.

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [X] No [ ]

  Often the losing party will have to pay the cost and lawyers' fees. It depends on all circumstances, would be in exceptional instances particularly where creditor could be regarded to have been acting in bad faith ect. The general behaviour of both parties would be taken into consideration by the Court when deciding on such a sentence.

- What is the standard time frame for obtaining a judgment

  Fer a default judgment the time frame is normally 2-4 months. When the claim is disputed the time for a judgement can be 2-12 months, depends on the level of the dispute and the workload of the relevant judge/ District court)

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  An appeal must be lodged within four weeks from the day the judgment was rendered by the District Court.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  Normally a judgment can be enforced in 14 days after the day when it was rendered, even when the debtor has not decided if he appeals the judgment. If he appeals it is not enforceable.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Sýslumaður (the bailiff / the district magistrate)

- Costs of enforcement?

  The cost of enforcement depends on the amount in question and the method of the execution

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  In fact, it only officially registered assets can be seized, e.g. real estates, registered vehicles, shares, boats etc. Wages cannot be seized under any conditions.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

The Lugano Convention from 2007 governs the enforcement of judgment as between Iceland, Switzerland and Norway and all pre-2004 EU states plus Poland. 2007 Lugano Convention was ratified in February 2011 and implements regulation EU 44/2001. The condition stipulated in reg. 44/2000 must be fulfilled. The EU judgment must be enforceable in the country of origin. Then it is enforced directly by the District Court (Héraðsdómur)

- What are the documents required?

  As described in the Act on Lugano Convention and recognition and enforcement of judgment in civil cases no. 7/2011.

  An original of the judgment or a certified copy together with the Lugano certificate must be presented (as stipulated in article 54 in the agreement: an inscription from the relevant court in the country of origin where the enforceability in the country of origin is verified)

  Documents establishing that the judgment is enforceable and that it has been served in accordance with the law of the State in which it was given

  A notification to pay a debt that and a notification of serving must be served to debtor according to same formalities that apply to serving a summon. Then it is possible to apply to the District Court for a confirmation that the judgment can be executed in Iceland. The District Court needs a certified copy of the judgment, with the Lugano certificate; inscription that it is enforceable in the home state, together with a proof that a notification to pay the debt has been served to debtor accordingly.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Héraðsdómur (The District Court)

- Costs?

  Depends- normally the basic fee is ISK 20.000

- Time frame for obtaining recognition and enforcement from your courts?

  Depends on the workload of the District Court in question

7.2. Under Regulation (EU) n° 1215/2013 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

N/A The foreign judgment needs to be rendered in a MS of the Lugano Convention

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

If the judgment is enforceable in another contacting state, it should be enforceable in Iceland. Nevertheless, the formalities described above need to be fulfilled and the District Court needs to verify the enforceability before it can be sent to the bailiff.

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  If a member of the Lugano convention, it is the same as for EU judgments. Judgments from all the Scandinavian countries can be enforced the same way as Icelandic judgments. Regarding judgments from other countries the applicable Hague Conventions apply.

- What are the documents required?

  An original of the judgment or a certified copy

  The Lugano certificate (art 54)

  Documents establishing that the judgment is enforceable and that it has been served in accordance with the law of the State in which it was given

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  Héraðsdómur (The District Court)

- Costs?

  Depends on the amount in question

- Time frame for obtaining recognition and enforcement from your courts?

  Depends on the workload of the court.

9. <u>Are there any special remarks on the court system in your country?</u>

The court system in Iceland is in many ways like the system in the other Scandinavian countries, but there are distinctive features.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  It is possible for an assignor to assign a claim to an assignee. There are very limited restrictions.

- What are the conditions and formalities for assigning a claim?

  For the assignment to be invoked against the debtor, the assignee must be able to prove that he has duly informed the debtor of the assignment of the claim.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? Are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  Guarantees and rights relating to the claim are only transferred from the assignor to the assignee if that is stipulated explicitly in their agreement (the assignment).

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

The debtor needs to be notified on the assignment, otherwise he can pay to the original creditor without being in default towards the buyer. The assignment of the claim can thus only influence the debtor after he has duly received a notification of the assignment. The creditor needs to be able to prove that debtor was notified. If the notification has been done in a provably manner the debtor can´t object.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  Third parties cannot oppose an assignment unless this has not been notified to the debtor but of course if they have securities in the claim that have been formally registered, they can oppose it if the assignment has not been formally registered. (this applies in exceptional cases only)

November 19th, 2019

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IRELAND

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [x]
- Purchase order — No [ ] Yes [x]
- Acknowledgment of purchase order — No [ ] Yes [ ]
- Proof of delivery — No [ ] Yes [ ]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [ ] Yes [x]
- Exchanges of correspondence — No [ ] Yes [x]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [ ]
- Other documents? — No [ ] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [x] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [x] Yes [ ]
  If "Yes": which?
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [ ] Yes [ ]
  If "Yes": any consequences?

  Yes but need to send dunning letter firsy

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [x] 10 [ ] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [x] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ]

(..-points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [x] Yes [ ]
  If "Yes": any form?
- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  three courts applicable, district, circuit and high which are used depending on the debt amount claimed
- List of the names of the courts, in your language and in English translation, which will hear B2B claimsdistrict, circuit and high courts.
- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [x] No [ ]
- Do you need a court representative? Yes [x] No [ ]
- Do you need to post a bond when bringing proceedings? Yes [x] No [ ]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [x] No [ ]
- Are written statements (affidavit) admitted? Yes [x] No [ ]

  Yes in certain circumstances
- What documents are requested to proceed?

  This is process of discovery which may or may not be applicable to the case
- Any formalities to fulfill for bringing an action?

  a demand letter must have been sent also we need evidence of identity of the client to comply with anti money laundering legislation
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]
- Are Discovery proceedings allowed? Yes [x] No [ ]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No [x]
  If "Yes": describe the rules:

  costs are normally awared to the winning party but thos e costs are normally about 50 to 75 per cent of the costs actually incurred by the client to the lawyer
- Does the court have to decide on such reimbursement or is it automatic? Yes [ ] No [ ]

  If case is not defended then scale costs apply if defended then the costs will normally be agreed or adjudicated by a third party
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  yes see above

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  If the creditor loses the case then costs will most likely be awarded against the creditor but this is unusual because normally the cases for debt are straightforward and this scenario does not usually occur.

- What is the standard time frame for obtaining a judgment?

  If case is not defended then 2 months approximately 2 Months

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  Depends on the court but generally 14 to 28 days

6. <u>Enforcement of domestic judgments:</u>

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  No

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Sheriff appointed by the court or lawyer who will use other methods of enforcement to be paid other than sheriff action

- Costs of enforcement?

  Cost will be awarde on enforcement

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Most assets enforcement is possible except "tools of trade"

7. <u>Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:</u>

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  Apply to high court for recognition

- What are the documents required? Original proceedings judgment certificate of enforceability?

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The high court

- Costs?

  Costs are awarded for recognition proceedings in court re European Enforcement Order costs not awarded other than those already included in EEO

- Time frame for obtaining recognition and enforcement from your courts?

  3 months

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  Certified copy of judgment certificate of enforceability copy of originating proceedings

- What are the documents required?

  See above

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  High Court

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  Same as reg 121 above

- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  It would be necessary to issue fresh proceedings citing the judgment obtained

- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  High court

- Costs?

  Cost can be awarded in relation to the proceedings either scale costs or adjudicated by the court

- Time frame for obtaining recognition and enforcement from your courts?

  Depends on whether proceedings are contested

9. <u>Are there any special remarks on the court system in your country?</u>

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes it is possible there may be restrictions however

- What are the conditions and formalities for assigning a claim?

  Notice of assignment must be given

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)?

  In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)? The answer to this question depends on the circumstances of the individual case.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  Depends on circumstance of case

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  Depends on particular circumstances of case

October 3, 2019

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ITALY

1. Necessary documents for the lawyer to start the case

- Contract No [ ] Yes [X]
- Purchase order No [ ] Yes [X]
- Acknowledgment of purchase order No [ ] Yes [X]
- Proof of delivery No [ ] Yes [X]
- Invoice No [ ] Yes [X]
- General terms and conditions No [ ] Yes [X]
- Exchanges of correspondence No [ ] Yes [X]
- Know Your Customer checking (anti-money laundering regulations) No [ ] Yes [X]
- Other documents? No [ ] Yes [ ]

It is not necessary to submit all the above documents to start the claim. The debt has to be proven by documents. The written evidence of acknowledgment of debt it is useful in order to obtain the provisional enforcement of the payment order.

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? No [X] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? If "Yes". Which regulation? No [X] Yes [ ]
- Has back-up documentation to be attached to the demand letter? No [X] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? No [X] Yes [ ]
  If "Yes": which?

  We use to charge them in the dunning letter, but they cannot be recovered judicially.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? No [X] Yes [ ]
  If "Yes": any consequences?

  Even if not compulsory, we use to send a dunning letter before starting a proceeding.

  Nevertheless, it is compulsory to start an ADR proceeding (negoziazione assistita) before starting a proceeding to collect amounts up to EUR 50.000,00.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 10 [**X**] 15 [ ] 30 [ ]

Shorter statute of limitation is provided in 5 years (e.g. for rent, interest rates) or

1 year (e.g. transport or shipping contracts, insurance rates).

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [**X**] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(until 31.12.2019: 8 percent points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [X]
  If "Yes": any form?

  The PoA has to be signed in front of the lawyer in Italy or of a public notary. It can be also released in an Embassy or Consulate of the Italian Republic abroad. If Italy does not recognize the public notaries of the foreign State (e.g. USA), the PoA has to be provided with apostille.
- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings:
  - *<u>Procedimento monitorio:</u> summary proceeding based on documents. Creditor asks for a payment injunction. If the debtor does not oppose against it within the legal deadline (normally 40 days), the injunction can be enforced. In case of debtor's opposition, an ordinary court proceeding takes place.*
  - *<u>Procedimento ordinario:</u> ordinary court proceeding starting with a writ of summons to be served to the defendant. The proceeding consists in several hearings and writings of both parties.*
  - *Proceeding according Regulation (EC) No 1896/2006 creating a European order for payment procedure*
  - *Proceeding according Regulation (EC) No 861/2007 establishing a European Small Claims Procedure (max. value of a claim: EUR 2 000,00)*
  - *Proceeding according Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims*
- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  Giudice di Pace: first instance court for claims which have a value up to EUR 5.000,00

  Tribunale: first instance court for cases which have a value over EUR 5.000,00 or second instance for small claims (on judgment rendered by Giudice di Pace);

  Tribunale delle Imprese (court for company matters)

  Corte di appello (court of appeal)

  Corte di Cassazione (High Court)
- Can you claim the payment in a foreign currency before your national courts? Yes [X] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [X] No [ ]
- Do you need a court representative? Yes [ ] No [X]
- Do you need to post a bond when bringing proceedings? Yes [ ] No [X]
- Costs (not fees) for instigating proceedings (e.g. stamp

duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.

Court costs: from EUR 43,00 to EUR 1.686,00 depending on the value of the claim; for the appeal the taxes rise by 50%; for the High Court (Corte di Cassazione) the taxes are doubled;

Stamp duties and bailiff's costs for serving the complaint: about EUR 15,00

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [X] No [ ]
- Are written statements (affidavit) admitted? Yes [ ] No [X]
- What documents are requested to proceed?

  Basically, the same documents as listed above under question no 1.

- Any formalities to fulfill for bringing an action?

  The lawyer has to serve the writ of summons to the other party.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [X] No [ ]
- Are Discovery proceedings allowed? Yes [ ] No [X]
- Are all costs reimbursed to the winning party or only a limited list of costs? If "Yes": describe the rules. Yes [ ] No [X]
- Does the court have to decide on such reimbursement or is it automatic? Yes [X] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? If "Yes": describe the rules. Yes [X] No [ ]

  The amount of the fees is awarded by the Italian courts between a minimum and a maximum, taking into consideration the value of the case and its complexity. The lawyer is allowed to ask his client an amount higher than what the judge awarded.

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? If "Yes". How does it work? Yes [X] No [ ]

  The court will award the fees normally in an average amount between minimum and maximum, as indicated above.

- What is the standard time frame for obtaining a judgment?

  Approximatively 18-48 Months.

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  Within 30 days after the judgement has been served by a party; if the judgement is not served, the appeal can be lodged within 6 months after the decision has been announced to the parties by the court.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  A not final judgement is provisionally enforceable. No security is required in order to start an enforcement.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Ufficiale Giudiziario (bailiff).

- Costs of enforcement?

  Before starting any kind of enforcement, it is necessary to serve a last payment request (atto di precetto). The serving costs are around EUR 15,00 ; fees between EUR 135,00 and EUR 540,00 (depending on the value of the claim).

  Movable execution: Court costs between EUR 70,00 and EUR 166,00, plus around EUR 50,00 for each seizure; fees between EUR 180,00 and EUR 2.395,00 (depending on the value of the claim).

  Attachment of credits (e.g. Bank accounts) : Court costs EUR 166,00 ; fees between EUR 330,00 and EUR 3.940,00 (depending on the value of the claim).

  Immovable execution: Court costs EUR 305,00 plus costs for appraisal of immovable by an expert and for public notary attending the auction; fees between EUR 212,00 and EUR 3.020,00 (depending on the value of the claim).

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  In principle, it is possible on all assets, except for certain personal belongings or on work equipments. The enforcement on wages or pensions sums is allowed only partially as a minimum amount shall remain at debtor's disposal.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  Italian courts do not review the fund of the matter in case of a foreign enforceable judgment given in a Member State. The check is only on formal enforceability of the judgment in order to declare it enforceable in Italy. The court shall refuse or revoke a declaration of enforceability only on one of the grounds specified in Articles 34 and 35 of above mentioned Regulation (e.g. when the judgment is manifestly contrary to public policy).

- What are the documents required?

  Certified copy of the judgement provided with the certificate pursuant to Art. 54 of this Regulation (as provided in Annex V) and certified translation of judgement and certificate.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Corte di Appello (Court of Appeal)

- Costs?

Court costs EUR 174,00 and fees around EUR 405,00 - EUR 3.000,00, plus translations costs.

- Time frame for obtaining recognition and enforcement from your courts?

  Approximately between 2 weeks and 3 months.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  The judgement must be enforceable in the EU-Member State in which it was issued.

- What are the documents required?

  Certified copy of the judgement provided with the certificate pursuant to Art. 53 of this Regulation (as provided in Annex I) and certified translation of judgement and certificate.

  The declaration of enforceability (described under 7.1) is not required anymore.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Corte di Appello (Court of Appeal).

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  The judgement must be enforceable in the country where it was issued.

- What are the documents required?

  A certified copy of the judgement provided with certificate pursuant to Art. 54 of this convention (as provided in Annex V). Certified translation of judgment and certificate.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Corte d'Appello (Court of Appeal)

8. Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:

- Conditions and test?

  The foreign judgement is recognized in Italy without being required any special procedure when:

  a. *it is compliant with Italian public policy rules and due process and it is enforceable in accordance with the law of the place in which it was issued;*
  b. *it is not contrary to another judgement given by an Italian court as res iudicata;*
  c. *no other previous proceeding is pending before an Italian court for the same cause of action and between the same parties.*

- What are the documents required?

  A certified copy and translation of the foreign judgement enforceable in the country of origin.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  Corte d'Appello (Court of Appeal.

- Costs?

  Court costs EUR 174,00 and fees around EUR 405,00 - EUR 3.000,00, plus translations costs.

- Time frame for obtaining recognition and enforcement from your courts?

  Approximately between 1 and 6 months.

9. <u>Are there any special remarks on the court system in your country?</u>

No.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes, it is possible. The assignor can assign a claim to an assignee, against payment or for free, unless the claim is of a strictly personal nature (e.g. maintenance claims) or the assignment is prohibited by law (e.g. prohibition of assignment of the disputed claim to the lawyer of the case).

- What are the conditions and formalities for assigning a claim?

  The contract of assignment does not require the acceptance of the debtor. The assignor has to give to the assignee the documentary evidence of the claim. When the assignment is against payment, the assignor must guarantee the existence of the claim at the time of the assignment, unless otherwise agreed. If the assignment is for free, the guarantee is only due by the donor e.g. for possible charges due by the donee.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)?In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  As a result of the assignment, the claim is transferred to the assignee with all rights, privileges, guarantees and other accessories (e.g. mortgage).

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The assignment of claim takes effect against the debtor and is enforceable against him, when he has accepted it or when it has been served him. In both cases the debtor cannot object to it. However, even before the assignment of claim has been served, the debtor who pays the assignor is not discharged, if the assignee proves that the debtor was aware of the assignment.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

Yes, the assignment of claim can be opposed to them, if it has been accepted by or notified to the debtor before those third parties act in order to satisfy their credit. That priority shall be conclusively proven. E.g. if the same claim has been assigned to several different parties, the assignment which was first notified to or first accepted by the debtor by a deed of certain date shall prevail and can be opposed to that third party.

It can be also opposed to an assignor's creditor that is enforcing, if the enforcement started after that the assignment of claim has been accepted by the debtor or notified him. Even in this case, the priority of the assignment shall be proofed by a document of certain date, as written above.

October 2019

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1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [x]
- Purchase order — No [x] Yes [ ]
- Acknowledgment of purchase order — No [x] Yes [ ]
- Proof of delivery — No [x] Yes [ ]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [ ] Yes [x]
- Exchanges of correspondence — No [x] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [x]
- Other documents? — No [ ] Yes [x]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your — No [x] Yes [ ]
- bar?
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [ ] Yes [x]
  If "Yes": What type of back-up documentation?

  In view of future court proceedings, invoices need to be attached to prove proper service of the invoices.
- Can you claim recovery costs out of court? — No [x] Yes [ ]
  If "Yes": which?
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [x] Yes [ ]
  If "Yes": any consequences?

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 10 [x] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [x] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [x] Yes [ ]
  If "Yes": any form?
- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings
  - *«Ordonnance de paiement» (order to pay): ex-parte proceedings (i.e. in the absence of debtor), basically for monetary claims based on contract or statute, to be filed with the judge of the cantonal court "justice de paix" or the chairman of the district court "Tribunal d'arrondissement", where debtor is located. This is a cheap and fast procedure (few weeks). However, if debtor objects within 15 days from service of the order by the clerk of the court, the case is refererred to the court, on the merits of the claim. Without objection, the court makes the notification of the decision and the debtor can make opposition or an appeal of it.*
  - *«Référé provision» (summary proceedings): These are adversarial proceedings (i.e. this time in presence of debtor) which are only eligible for non-disputed claims, and which are brought before the chairman of the court where debtor is located. This is a fast procedure, but may in practice take several month as all summary proceedings will be dealt with by the same chamber of the court.*
  - *«Procédure au fond» (proceedings on the merits): These are adversarial proceedings (i.e. in presence of debtor) which are brought before the commercial court where debtor is located, when the claim is disputed. The approximate length of such proceedings is 1 to 2 years.*
  - *«Saisie Arrêt» (freezing order) procedure whereby the creditor obtains payment of his debt from a third person (the garnishee), typically a bank holding assets of the debtor. The freezing order will be granted without implication of the debtor for any undisputed claim or any claim that seems to be prima facie justified, under the condition that there is a potential risk that assets could be carried outside of Luxembourg. The first phase, in which the account or the goods of the garnishee are seized, is provisionally. After that the parties are convoked by the court for the phase of release, where the judge estimate the claim of the creditor.*
- List of the names of the courts, in your language and in English translation, which will hear B2B claims
  - *When the amount of the claim is **less than 10.000.- EUR** → « Justice de Paix» (cantonal court)*
  - *When the amount of the claim is **more than 10.000.- EUR** → « Tribunal de commerce» (commercial court) and «Tribunal d'arrondissement» (district court).*
- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]

  Litigators usually ask for the conversion into euros of the claim expressed in foreign currency.
- Is election of domicile required when acting for a foreign creditor? Yes [x] No [ ]
- Do you need a court representative? Yes [x] No [ ]

  Just for the cases at the district court ("Tribunal d'arrondissement"), not necessary at the cantonal Court ("Justice de Paix"). For cases at the district court (Tribunal d'arrondissement) of Diekrich a lawyer registered in Luxembourg City would need a representative from the Diekirch bar and vice versa.

- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiff's costs for serving the complaint, if any; court representative, etc.)
    - *«Ordonnance de paiement» (order to pay): no costs arise*
    - *«Référé provision» (summary proceedings): circa 200 Euro (court costs, stamp duties and bailiff's fees).*
    - *«Procédure au fond» (proceedings on the merits): circa 200 Euro (court costs, stamp duties and bailiff's fees).*
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [x]
- Are written statements (affidavit) admitted? Yes [x] No [ ]
- What documents are requested to proceed?

  The documents listed under question 1.
- Any formalities to fulfill for bringing an action?

  Register the claim with the court after service of the summons by a bailiff upon debtor ("procedure au fond").
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]

  The Luxembourg official languages are French, German and Luxembourgish; there is no translation necessary for any documents in these languages. Documentation in English is widely accepted.
- Are Discovery proceedings allowed? Yes [ ] No [x]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No [x]
  If "Yes": describe the rules:

  Only a limited list of costs are reimbursed (basically court costs, stamp duties, and bailiff's fees).
- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

  The court has to decide.
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [ ] No [x]
  If "Yes": describe the rules:

  Only a portion of the Lawyer's fees are reimbursed but this amount is discretionary. In Luxembourg, courts award to the winning party a little amount for lawyer's fees but in practice this amount never covers all the fees.
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  The courts award to the wining party a discretionary amount.
- What is the standard time frame for obtaining a judgment
    - *For «ordonnance de paiement» : a few weeks*

- *For «référé provision»: several month*
- *For «procédure au fond»: 12 to 24 months*

- What is the time frame for lodging a recourse against the judgment rendered by the court?
  - *For "ordonnance de paiement": 40 days as from the notification by the court*
  - *For «référé provision»: 15 days as from the notification by bailiff*
  - *For «procedure au fond»: 40 days as from the notification by bailiff*
  - *(For parties in the European Union, the above delays are extended by a further 15/25 days period of time; for parties outside the EU, the above delays are extended by a further 35 days period of time).*

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  Either the judgement has to become final or the judgment rendered is provisionally enforceable.

  No securities needed to enforce the judgment.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  «Huissiers de Justice» (bailiffs)

- Costs of enforcement?

  These are bailiffs' costs. The costs may vary according to the work invoked and the value of the case.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Enforcement is possible on all debtor's assets except assets charged with some security instruments.

  In case of seizure, enforcement of assets, which are already frozen by a previous creditor, is not possible.

  Furthermore in case of a wage withholding a minimum monthly amount of salary corresponding to circa 30% of the minimum salary needs to remain with the debtor.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  (EC) Nr. 44/2001 → A judgment given in a Member State shall be recognized in the other Member States without any special procedure being required. For the Enforcement in Luxembourg, this judgment has to be enforceable in the Member State of origin and, on the application of any interested party, it has been declared enforceable by the President of the district court (Président du Tribunal d'arrondissement).

  Exception for:

« uncontested claims »: For judgments on uncontested claims from another Member State (beside Denmark) a European Enforcement Order is sufficiently for the direct enforcement in Luxembourg. A judgment which has been certified as a European Enforcement Order in the Member State of origin will be recognized and enforced in Luxembourg without the need for a declaration of enforceability and without any possibility of opposing its recognition ((EC) No 805/2004).

- What are the documents required?

  (EC) Nr. 44/2001 → Copy of the judgment which satisfies the conditions necessary to establish its authenticity and the certificate provided in art. 54 of the regulation, which has to be issued by the court of the Member State of origin.

  Exception for:

  « uncontested claims »: The enforceable judgment from another member state with the certification as a European Enforcement Order. The certification is delivered by the Member State of origin.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  "Tribunal d'Arrondissement" (district court), where debtor is located (Luxembourg or Diekirch).

- Costs?

  No costs.

- Time frame for obtaining recognition and enforcement from your courts?

  Several weeks.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  (EC) Nr. 1215/2012 → a judgment given in a Member State after entry into force of the directive shall be recognized in the other Member States without any special procedure required. For the Enforcement in Luxembourg, this judgment will be enforceable in Luxembourg without any further recognition procedure by the Luxembourg courts.

- What are the documents required?

  (EC) Nr. 1215/2012 → copy of the judgment which satisfies the conditions necessary to establish its authenticity and enforceability as well as the certificate provided in Art. 53 of the regulation, which has to be issued by the court of the Member State of origin.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The clerk of the "Tribunal d'arrondissement" (district court), where the debtor is located (Luxembourg or Diekirch).

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  A judgment given in a Member State after entry into force of the directive shall be recognized in the other Member States without any special procedure required. For the Enforcement in Luxembourg, this judgment has to be enforceable in the Member State of

origin and, on the application of any interested party, it has been declared enforceable by the President of the district court (Président du Tribunal d'arrondissement).

- What are the documents required?

  A copy of the judgment which satisfies the conditions necessary to establish its authenticity and enforceability as well as the certificate provided in Art. 54 of the regulation, which has to be issued by the court of the Member State of origin.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The clerk of the "Tribunal d'arrondissement" (district court), where the debtor is located (Luxembourg or Diekirch).

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  Foreign judgment needs to be enforceable in its country of origin.

  Three-prong test for obtaining recognition and enforcement of a non EU judgment in:

  - *Jurisdiction of the foreign court.*
  - *Absence of fraud in obtaining the foreign judgment.*
  - *The foreign judgment needs to respect the Luxembourg public policy rules and due process*

- What are the documents required?

  An authenticated copy of the foreign judgment, evidence that the foreign judgment is enforceable in its country of origin, and translations.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  "Tribunal d'Arrondissement"(district court) where the debtor is located (Luxembourg or Diekirch).

- Costs?

  No Costs.

- Time frame for obtaining recognition and enforcement from your courts?

  A few months.

9. <u>Are there any special remarks on the court system in your country?</u>

Jurisdictions are different when the amount of the claim is less than 10.000.- EUR (« Justice de Paix » - cantonal court) or more than 10.000.- EUR ("Tribunal d'arrondissement" – district court).

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes, an assignment is always possible. The debtor needs however to be informed of the assignment.

- What are the conditions and formalities for assigning a claim?

  No particular formalities.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  This depends on the contractual arrangement.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The debtor has no right of objection, needs however to be notified by registered letter according to the rule of Article 1690 Code Civil

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  No

Luxembourg, 8 November 2019

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THE NETHERLANDS

1. <u>Necessary documents for the lawyer to start the case</u>

- Contract — No [x] Yes [ ]
- Purchase order — No [x] Yes [ ]
- Acknowledgement of purchase order — No [x] Yes [ ]
- Proof of delivery — No [x] Yes [ ]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [x] Yes [ ]
- Exchanges of correspondence — No [x] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [x] Yes [ ]
- Other documents? — No [x] Yes [ ]

Although it is not necessary to include the contract and/or the general terms and conditions, if the debtor wishes to claim a contractual interest rate and/or penalty it is helpful to include the documents which record the corresponding agreements.

2. <u>Out of court collection (Dunning Letter):</u>

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [x] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?

  Yes, this is possible. In case of B2C out of court collection, the law relating to extrajudicial collection costs applies (Wet normering buitengerechtelijke incassokosten). In this case, extrajudicial collection costs have to be calculated according to a graduated scale and are subject to a maximum.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [x] Yes [ ]
  If "Yes": any consequences?

  Although this is not mandatory, it is recommended to do so.

3. <u>Statute of limitations:</u>

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [x] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [x] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

B2C: 1 [ ] 2 [x] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [x]
  If "Yes": any form?

  Written form is obligatory.

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  (Regular) Procedure on the merits (NL: Dagvaardingsprocedure): This procedure starts with a writ (of summons). The debtor can respond by means of a (written) response. If the debtor does not respond, the court will deliver a default judgement within a few weeks.

  Summary Procedure (NL: Kort geding procedure): If the creditor has an urgent interest, he can start this procedure. In this procedure an oral hearing is customary. Usually, the court will deliver a judgement within a few weeks after the hearing.

  European order for payment procedure (NL: Europees betalingsbevelprocedure): The European order for payment procedure as meant in Regulation (EC) no. 1896/2006 will allow creditors to recover their uncontested civil and commercial claims according to a uniform procedure that operates based on standard forms. The procedure does not require the parties to appear before the court. The Regulation is applicable between all EU-Member States, with the exception of Denmark.

  Procedure for the seizure of assets (NL: Beslagprocedure): This procedure enables the creditor to seize assets of the debtor. The permission for a seizure is given without an oral hearing and/or a prior announcement addressed to the debtor.

  Procedure for the application of bankruptcy (NL: Faillissementsaanvraag): If the creditor is also aware of another claim against the same debtor, he can ask the court to declare the debtor bankrupt.

- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  First instance, claims of < €25.000,-: District Court, sector Kanton (NL: Rechtbank, sector Kanton);

  First instance, claims of > €25.000,-: District Court (NL: Rechtbank);

  Court of Appeal – Gerechtshof;

  Supreme Court – Hoge Raad.

- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]

- Is election of domicile required when acting for a foreign creditor? Yes[ ] No [x]

  Do you need a court representative? Yes [x] No [ ]

This is not mandatory when a procedure is handled by the District Court, sector Kanton (claims of < € 25.000,-).

- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  The bailiff costs can be found on the website of the Koninklijke Beroepsorganisatie van Gerechtsdeurwaarders (www.kbvg.nl).

  The court fees can be found on the website of the Dutch court (www.rechtspraak.nl).
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [x]
- Are written statements (affidavit) admitted? Yes [x] No [ ]
- What documents are requested to proceed?

  This will depend on the merits of the case. In general, the parties are asked to substantiate their statements and claims.
- Any formalities to fulfill for bringing an action?

  A writ of summons will have to be delivered by the bailiff.
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [ ] No [x]

  In general, the court will allow this as long as the document is in English, German and/or French.
- Are Discovery proceedings allowed? Yes [ ] No [x]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [x] No [ ]
  If "Yes": describe the rules:

  Yes, although these costs are calculated according to a graduated scale.
- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  Yes, although these costs are calculated according to a graduated scale.
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  Yes, although these costs are calculated according to a graduated scale.
- What is the standard time frame for obtaining a judgment 6-12 Months
- What is the time frame for lodging a recourse against the judgment rendered by the court?

  Within 3 months after the date of the judgement.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  In general, a judgement can be enforced even if the debtor still can or already has appealed.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  The bailiff can enforce judgements (NL: Gerechtsdeurwaarder).

- Costs of enforcement?

  The bailiff costs can be found on the website of the Koninklijke Beroepsorganisatie vanGerechtsdeurwaarders (www.kbvg.nl).

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  In general, all assets of the debtor can be seized. The law does exclude some personal belongings and a certain income which cannot be seized.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  An exequatur procedure has to be completed before the foreign judgement can be executed.

- What are the documents required?

  Article 54 of the Regulation stipulates that the court or competent authority of the Member State where the judgment was given must issue a certificate using the standard form in Annex V to this Regulation.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The District Court (NL: Rechtbank).

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  A judgement given in a Member State bound by this Regulation shall be recognised in the Netherlands without any special procedure being required.

- What are the documents required?

  A copy of the judgement and the certificate referred to in the Regulation.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The District Court (NL: Rechtbank).

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  A judgement given in a Member State bound by this Regulation shall be recognised in the Netherlands without any special procedure being required.

- What are the documents required?

  A judgement given in a Member State bound by this Regulation shall be recognised in the Netherlands without any special procedure being required.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The District Court (NL: Rechtbank).

8. Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:

- Conditions and test?

  A judgement needs to follow the exequatur procedure before it can be enforced in The Netherlands.

- What are the documents required?

  In order to obtain an exequatur, an attorney must provide the court with an original certified copy of the judgment.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  The District Court (NL: Rechtbank).

- Costs?

  The costs depend on the origin of the judgement.

- Time frame for obtaining recognition and enforcement from your courts?

  The time frame depends on what needs to be done to execute the judgement.

***9.* Are there any special remarks on the court system in your country?**

One of the main advantages of collecting debts in The Netherlands is the possibility to seize assets of a debtor before a judgement is delivered. The approval to seize assets can be obtained within 24 hours.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes, this is possible but a written deed of assignment is obligatory.

- What are the conditions and formalities for assigning a claim?

  A written deed of assignment is obligatory.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  These guarantees and rights are also transferred to the assignee.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  In order for the assignment to be invoked against the debtor, it is required for the assignee to inform the debtor of the assignment of the claim.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  As long as the debtor has not contractually excluded the assignability of the claim, he cannot object to this assignment.

October 31, 2019

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POLAND

1. Necessary documents for the lawyer to start the case

Depending on the type of procedure, the scope of documentation varies. Documentation for traditional (non-electronic) proceedings was presented.

- Contract — No [ ] Yes [X]
- Purchase order — No [ ] Yes [X]
- Acknowledgment of purchase order — No [ ] Yes [X]
- Proof of delivery — No [ ] Yes [X]
- Invoice — No [ ] Yes [X]
- General terms and conditions — No [ ] Yes [X]
- Exchanges of correspondence — No [X] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [X] Yes [ ]
- Other documents? — No [X] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [X] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [X] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [X] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [X]
  If "Yes": which? Lump-sum 40-100 euro
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [ ] Yes [x]
  If "Yes": any consequences?

  The claimant must make a statement about attempting to resolve the dispute out of court. If not, the court will return the claim.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [X] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [X] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(*2,25%* -points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [X]
  If "Yes": any form? Written
- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings
  - *postępowanie nakazowe (proceedings by writ of payment based on documents) - proceedings in cases where the plaintiff has substantiated the claim by specific documents (e.g. promissory note)*
  - *elektroniczne postępowanie upominawcze (electronic writ of payment) - electronic proceedings, for uncomplicated property matters*
  - *postępowanie upominawcze (proceedings by writ of payment based on the plaintiff's statements) - universal procedure in payment cases*
- List of the names of the courts, in your language and in English translation, which will hear B2B claims
  - *Sąd rejonowy – Disctrict Court*
  - *Sąd okręgowy - Provincial Court*
  - *Sąd apelacyjny - Court of appeal*
- Can you claim the payment in a foreign currency before your national courts? Yes [X] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [X]
- Do you need a court representative? Yes [ ] No [X]
- Do you need to post a bond when bringing proceedings? Yes [X] No [ ]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiff's costs for serving the complaint, if any; court representative, etc.)
  - *Bailiff's costs for serving the complaint (only if the post office cannot effectively deliver a lawsuit)*
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [X] No [ ]
- Are written statements (affidavit) admitted? Yes [X] No [ ]
- What documents are requested to proceed?
  - *Written statement and court consent*
- Any formalities to fulfill for bringing an action?
  - *Written form and payment of the fee*

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [ ] No [X]
- Are Discovery proceedings allowed? Yes [ ] No [X]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [X] No [ ]
  If "Yes": describe the rules:

  Refund of court fee and legal representation costs
- Does the court have to decide on such reimbursement or is it automatic? (Automatic) Yes [X] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [ ] No [X]
  If "Yes": describe the rules:
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [X] No [ ]
  If "Yes". How does it work?

  The losing party shall reimburse the winning party for the costs of defense and legal representation
- What is the standard time frame for obtaining a judgment? 24 Months
- What is the time frame for lodging a recourse against the judgment rendered by the court?

  7 or 14 days

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  The requirement to initiate enforcement proceedings is the presentation of an enforceable title and application. There is no mandatory security.
- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.
  - *Komornik sądowy – Bailiff*
  - *Organy administracyjne - Administrative authorities (usually for public liabilities)*
- Costs of enforcement?

  Advance payment for expenses – about 30-50 euro

  Fee for ineffective execution – about 30 euro
- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Only some assets. The bailiff leaves the debtor part of his remuneration, retirement and disability benefits and funds on the bank account.

7. <u>Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:</u>

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  Decisions given in one Member State shall be recognised in the other Member States without any special procedure being required. But a declaration of enforceability of the enforcement order is necessary.

  A decision given in an EU Member State shall not be recognised if :

  1. *recognition would be manifestly contrary to public policy in the State in which recognition is sought,*
  2. *where it was given in default of appearance, if the defendant was not served with the document which instituted the proceedings or with an equivalent document in sufficient time and in such a way as to enable him to arrange for his defence, unless the defendant failed to commence proceedings to challenge the decision when it was possible for him to do so;*
  3. *the judgment is irreconcilable with a judgment given in a dispute between the same parties in the State addressed,*
  4. *if it is irreconcilable with an earlier judgment given in another Member State or in a third State involving the same cause of action and between the same parties, provided that the earlier judgment fulfils the conditions necessary for its recognition in the requested State.*

- What are the documents required?

  A party wishing to invoke in a Member State a judgment given in another Member State should produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity and a certificate issued by the home court attesting its enforceability. The court may exempt us from presenting the certificate, but it may order us to provide translations of the documents.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Sąd Okręgowy - Provincial Court

- Costs?

  50 PLN (about 12 EUR)

- Time frame for obtaining recognition and enforcement from your courts?

  About 3-5 months

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  Decisions given in one Member State shall be recognised in the other Member States without any special procedure being required.

- What are the documents required?

  The creditor addresses the request for enforcement directly to the enforcement authority (usually the bailiff) and submits to it a copy of the judgment of the court of the Member

State (without the need to submit to the bailiff an additional final decision of the county court declaring the judgment enforceable together with an enforcement clause) and a certificate from that court, drawn up in accordance with the form introduced by Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Sąd Okręgowy - Provincial Court

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  Decisions given in one Member State shall be recognised in the other Member States without any special procedure being required. But a declaration of enforceability of the enforcement order is necessary.

- What are the documents required?

  A party wishing to invoke in a Member State a judgment given in another Member State should produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity and a certificate issued by the home court attesting its enforceability. The court may exempt us from presenting the certificate, but it may order us to provide translations of the documents.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Sąd Okręgowy - Provincial Court

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  (Art. 1146 of Civil Procedure Code) Foreign judgments given in civil matters shall be recognised by operation of law unless the following impediments exist.

  1. the judgment is not final in the State of origin;

  2. was issued in a case falling within the exclusive jurisdiction of the Polish courts;

  3. a defendant who did not enter an appearance on the merits was not duly served with the document instituting the proceedings in sufficient time to enable him to arrange for his defence;

  4. the party was deprived of the opportunity to defend itself during the proceedings;

  5. a case concerning the same claim between the same parties was pending in the Republic of Poland earlier than before a court of a foreign state;

  6. is inconsistent with a previously issued final decision of a Polish court or a previously issued final decision of a foreign court, meeting the conditions for its recognition in the Republic of Poland, issued in a case concerning the same claim between the same parties;

  7. recognition would be contrary to the fundamental principles of the legal order of the Republic of Poland (public policy clause).

- What are the documents required?

(Art. 1147 of Civil Procedure Code) A person claiming recognition of a foreign court decision is obliged to produce:

1. an official copy of the judgment;

2. a document stating that the decision is final unless the decision is final and binding in substance;

3. certified translation into Polish of the documents listed in points 1 and 2 and in § 2.

§ If the judgment was given in a case where the defendant did not appear on the merits, produce a document stating that the document instituting the proceedings has been served on him.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  Sąd Okręgowy - Provincial Court

- Costs?

  50 PLN (about 12 EUR)

- Time frame for obtaining recognition and enforcement from your courts?

  About 3-5 months

9. <u>Are there any special remarks on the court system in your country?</u>

In the past few years, numerous legal changes have been introduced to protect the debtor's rights (in court, enforcement and bankruptcy proceedings). Costs of pursuing claims were also drastically increased and bailiffs' competences and earnings were reduced.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes it is possible, even without the debtor's consent (unless the consent requirement was stipulated in the contract).

- What are the conditions and formalities for assigning a claim?

  There are no special formalities, although for the purposes of evidence the assignment agreement should be in writing. If the signatures on the assignment are confirmed by a notary public, the buyer may use the simplified enforcement procedure.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  Depending on the content of the assignment agreement, there are no legal regulations

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The debtor cannot oppose (unless there were other provisions in the original contract). Until the debtor is notified of the assignment, if the debtor pays to the seller, this is effective for the buyer.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  No, third parties cannot object (unless there were other provisions in the original contract). Until the third party is notified of the assignment, if the third party pays to the seller, this is effective for the buyer.

October 28th, 2019

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Portugal

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [X]
- Purchase order — No [ ] Yes [X]
- Acknowledgment of purchase order — No [ ] Yes [ ]
- Proof of delivery — No [ ] Yes [X]
- Invoice — No [ ] Yes [X]
- General terms and conditions — No [ ] Yes [X]
- Exchanges of correspondence — No [ ] Yes [X]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [X]
- Other documents? — No [ ] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [X] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [X] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [X] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [X]
  If "Yes": which?

  Recovery costs may be claimed out of court if such is condition was agreed on the contract that entitles the credit.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [X] Yes [ ]
  If "Yes": any consequences?

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 20 [X] 30 [ ]

The general statute of limitations regarding B2B claims is 20 years.

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [X] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [X]
  If "Yes": any form?

  No special form needed.

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  There are several options of judicial proceedings, depending on the ultimate goal, namely:

  (i) Simple collection proceedings ( );

  (ii) Enforcement proceedings (ação executiva);

  (iii) Declaratory proceedings (ação declarativa condenatória);

  (iv) Precautionary measures (procedimentos cautelares);

  (v) Insolvency proceedings (ação de insolvência).

  (i) Simple collection proceedings (injunção)

  This is an administrative procedure allows the creditor to obtain an enforceable title, in a swift and simplified way. This is the essential document that allows that the judicial debt recovery through the court without having to promote a declaratory action. This procedure is initiated with a very simple description of the main facts leading to the amount in debt made by the creditor in the simple collection proceedings (injunção) form. It is not necessary to enclose any documents or power of attorney.

  Summary of the simple collection proceedings (injunção):

  1. *The creditor presents the respective form;*
  2. *The debtor is served for payment of the requested amount, plus court fees or, alternatively, to file its opposition within 15 days;*
  3. *If the debtor files an opposition to the simple collection proceedings (injunção), the procedure shall continue as a declaratory action;*
  4. *If the debtor, after being duly served, does not present its opposition to the simple collection proceedings (injunção) the creditor will obtain an enforceable title with similar strength to a court judgment.*

  (ii) Enforcement Proceedings (ação executiva)

  The enforceable title is the basis for enforcement proceedings as it limits and determines its final goal ie. payment of a certain amount. Payment may occur voluntarily by the debtor or through seizure and subsequent sale of his assets.

  Summary of Enforcement Proceedings

  1. *The proceeding begins when the petition is filed in court by the creditor.*
  2. *The enforcement proceeding is led by an Enforcement Agent who can be appointed by the creditor in his petition. The Enforcement Agent is responsible for*

notifications, seizures, sale of seized assets and control of payment of the amount in debt.

3. *Depending on the kind of enforceable title, the debtor may or may not be previously served to present his opposition or pay the requested amount. When the enforceable title is a i) judgment, ii) simple collection procedure to which was granted enforceability, iii) extra-judicial title with limited amount of € 10.000,00, iv) a mortgage or pledge, the proceedings follow a summary form in which the debtor will only be summoned after the seizure of his assets or goods, or if no assets or goods are found. With all other enforceable titles the enforcement follows an ordinary form that starts with the summoning of the debtor and only after the attachment of the assets will occur.*
4. *In both forms, debtor's opposition will only suspend the enforcement proceedings if a security is granted.*
5. *When an opposition is filed the enforcement procedure shall continue as a declaratory one.*

(iii) Declaratory Proceedings (ação declarativa condenatória)

Declaratory Proceedings are an alternative to Simple collection proceedings (injunção).

However, they are more expensive and have a lengthier procedure. Plaintiff should fully describe its case in detail and offer the respective evidence. Also, the Defendant has a wider range of opportunities to reply and defend its cause. Both parties may discuss fact and law by means of written pleadings (until trial), since they have extended deadlines to present and prove their arguments.

The option for this procedure should be considered whenever there is a previous knowledge that the commercial relation with the debtor is complex and there may be a need to properly and carefully expose the case in court.

(iv) Precautionary measures (procedimentos cautelares)

Creditor may present a Precautionary measure as a means to assure effectively the threatened right. For that purpose the Credit should argue and prove that there is a reasonable fear that the debtor would cause damage in a serious and hardly repairable way to the Plaintiff's right. In other words, only if the Plaintiff has facts that prove such reasonable fear, along with the other referred legal conditions, would be possible to win the merits of a precautionary measure filed against the debtor.

In a debt collection matter the typical measure is the seizure of debtor's assets prior to the launching of the declaratory or enforcement procedure, fearing that the debtor dissipates its assets when acknowledging the existence of the declaratory or enforcement procedure against him.

These measures shall be previously evaluated according to each debtor situation.

(v) Insolvency proceedings (ação de insolvência)

In case of impossibility of payment of the debt to the creditor, the debtor insolvency may be requested by a creditor or by the debtor itself.

In case the Insolvent company has assets an Insolvency Administrator is appointed to manage those assets and prepare a report with the analysis of the debtor's situation.

If the debtor is a company, the Insolvency Administrator may propose the immediate ending of the Insolvent's activity and the sale of all assets in order to pay the creditors. Based on the available information and the report prepared by the Insolvency Administrator he can propose that the company may continue its activity with implementation of a plan of payments to creditors.

If the debtor is an individual, it can also be adopted a plan of payments or only the sale of his assets. The debtor may request the court to declare that the remaining debts, after the sale of assets and payments to creditors, are cleared.

With the insolvency declaration, all enforcement proceedings against the debtor are suspended. Therefore, for a creditor to be paid, he must claim his credit on the insolvency proceedings, even if there are other pending debt collection procedure in respect of the same credit.

List of the names of the courts, in your language and in English translation, which will hear B2B claims

- *Balcão Nacional de Injunções (National Counter of Simple Collection Proceedings);*
- *Tribunal Judicial (Judicial Court);*
- *Tribunal do Comércio (Commerce Court)*

- Can you claim the payment in a foreign currency before your national courts? Yes [ ] No [X]
- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [X]
- Do you need a court representative? Yes [ ] No [X]
- Do you need to post a bond when bringing proceedings? Yes [ ] No [X]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiff's costs for serving the complaint, if any; court representative, etc.)
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [X] No [ ]

  Courts are bound to apply the rule of the free assessment of evidence. Portuguese Courts tend to consider very relevant the testimony of a witness. Hence, it is very important to present witnesses at Court. Depending on the proceedings' form the Creditor may present from 3 to 10 witnesses. Foreign witnesses may be inquired by videoconference. All Portuguese Courts are fully equipped for that matter. It is also available alternative means of testimony, like via skype of facetime.

- Are written statements (affidavit) admitted? Yes [X] No [ ]

  Written statements are automatically admitted in some proceedings. On the other ones they depend on the acceptance of the judge. It is also applied to them the rule of the free assessment of evidence. In this matter, Portuguese Courts usually do not consider them as strong evidence, and usually are underestimated or overlooked when confronted with live testimonies. The judge, or the counter-party, may order/request that witness must be presented to Court in order to clarify some aspects of his written statements.

- What documents are requested to proceed?

  There is no need to enclose any documents, but the written statement must have the deponent's signature recognized by a notary.

- Any formalities to fulfill for bringing an action?

  No

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [ ] No [X]

  Documents may be presented in a foreign language if the court can understand them. Otherwise they must be translated. In such case, the court will instruct the party to present

the documents' translation. Usually, Courts do request the translation of all foreign language documents.

- Are Discovery proceedings allowed? Yes [ ] No [X]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [X] No [ ]
  If "Yes": describe the rules:

  The winning party is allowed to request the reimbursement of some specific costs such as court fees, legal expenses, the amount paid to the enforcement agent and the lawyers legal fees as detailed below.
- Does the court have to decide on such reimbursement or is it automatic? Yes [ ] No [X]

  It is automatic, but the winning party must present its costs to the court at the same that they are presented to the counterparty.
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [X] No [ ]
  If "Yes": describe the rules:

  Lawyer's fees are reimbursed to the winning party up to the equivalent amount of 50% of all court fees disbursed by both parties in the respective procedure.
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [X] No [ ]
  If "Yes". How does it work?

  In such scenario, the creditor must pay the costs to the counterparty as previously explained. Also the lawyer's fees must be paid up to the maximum of 50% of the court fees supported by both parties.
- What is the standard time frame for obtaining a judgment? *15 Months*
- What is the time frame for lodging a recourse against the judgment rendered by the court?

  30 days

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  If an appeal is lodged against the judgment rendered by the court, said judgment is still enforceable, as long as it is not granted a suspensive effect to that appeal. Under the Portuguese Civil Procedure Law the rule is that the appeal does not have suspensive effect. In this case, the enforcement is able to proceed, and the seized assets may even be sold. The appeal will only affect the payment of the creditor, which cannot occur whilst the appeal is pending. Notwithstanding, if the Creditor provides a suitable security and the Court accepts it, he may be paid by the product of the sale of the debtor's assets.
- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  *The responsible entity to pursue the enforcement and to proceed to all necessary tasks is the **Agente de Execução** (enforcement agent, similar to a bailiff).*
- Costs of enforcement?

  In order to present the enforcement procedure it is necessary to pay court fees of € 51,00 or € 25,50, whether the amount claimed is over € 30.000,00 or not, respectively.

The creditor has also to firstly support the enforcement agent fees. Subsequently, those fees will be supported by the debtor if the amount is recovered. Enforcement agent fees will depend on several aspects, such as (i) steps taken in the file by the enforcement agent; (ii) kind of assets seized, (iii) amount recovered, (iv) recovery date ie. length of time necessary for such recovery. Minimum amount of the Enforcement Agent fees is € 153,00.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  The creditor is able to seize all debtor assets (although some are not fully seizable like the wages). The seizure should start with the assets that are easily liquidated or sold. However, the Enforcement Agent must respect the principle of proportionality and must not proceed with the seizure of assets that are worth much more than the credit. For instance, if the credit is over € 5.000,00 and it is not expected that the creditor will obtain its payment in less than 18 months following the seizure of all assets except a real estate, then it is allowed for the creditor to request the seizure of real estate. Otherwise it is not allowed because it violates the principle of proportionality

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  Any judgment on civil and commercial matters, rendered in an EU state member, is enforceable in Portugal as long as it is presented an application requesting its enforceability. Any party may appeal of the decision that grants or rejects the request for recognition.

  On the same matters, if the original claim was not challenged and a judgment was rendered, it is possible to obtain an European Enforcement Order (EEO) according to Council Regulation (EC) n.º 805/2004.

  In this case, the certificate of the EEO must be requested at the Court where the original judgment was rendered.

- What are the documents required?

  Certificate of the judgment;

  Certificate of the standard form in Annex V of the Regulation 44/2001 issued by the Court that rendered the judgment; Or Certificate of the standard form in Annex I of the Regulation 805/2004 issued by the Court that rendered the judgment.

  Certified translations of the aforementioned documents

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Tribunal de Comarca (First instance Judicial Court) with jurisdiction on the area of debtor's domicile.

- Costs?

  There are not any costs to obtain the enforceability of the judgment.

- Time frame for obtaining recognition and enforcement from your courts?

3 months.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  Any judgment on civil and commercial matters, rendered in an EU state member, is enforceable in Portugal as long as it is presented an application requesting its enforceability. Any party may appeal of the decision that grants or rejects the request for recognition.

- What are the documents required?
  - *Certificate of the judgment;*
  - *Certificate of the standard form in Annex I of the Regulation 1215/2012 issued by the Court that rendered the judgment;*
  - *Certified translations of the aforementioned documents*
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Tribunal da Relação (Appeal Court)

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  Creditor must request the recognition of the judgment, which is granted without the prior hearing of the Counterparty. The latter may lodge an appeal of the recognition judgement.

- What are the documents required?
  - *Certificate of the judgment;*
  - *Certificate of the standard form in Annex 5 of the Lugano Convention issued by the Court that rendered the judgment;*
  - *Certified translations of the aforementioned documents*
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Tribunal de Comarca (First Instance Court) with jurisdiction on the area of the debtor's residence.

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  In the absence of any treaty, the judgment needs to be recognized by the Portuguese Courts in order to be granted its exequatur.

  Under the principle of audi alteram partem the defendant must be served to present its challenge. In that case a trial hearing will take place.

  The grounds to reject the exequatur by the court (and invocable by the defendant) are the inauthenticity of the judgment; the inobservance of formal proceedings on the service of the defendant; that the judgment is not yet final; the noncompliance of the foreign judgment with Portuguese international public policy rules; the lack of jurisdiction by the foreign court or the observance of fraud to concede its jurisdiction;

- What are the documents required?
  - *Certificate of the judgment;*
  - *Certified translation of said judgment;*
- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  Tribunal da Relação (Court of Appeal) with jurisdiction on the area of the Defendant's domicile. If its abroad, it is the Court of Appeal of Lisbon that has jurisdiction.

- Costs? € 612,00
- Time frame for obtaining recognition and enforcement from your courts? *6 months.*

9. <u>Are there any special remarks on the court system in your country?</u>

No.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  The assignment is possible without any restriction.

- What are the conditions and formalities for assigning a claim?

  The assignment can be done extra judicially, simply by sending a registered letter to the debtor informing of the assignment and that from that date, any payment should be made to the assignee.

  It can also be made judicially, if declaratory or collection proceedings are pending.

  The judicial credit assignment is filed by annex of the main proceedings and summons the debtor to challenge the assignment. The requirements for such opposition are very narrow, since the debtor may only invoke that such assignment hinders its fulfillment of the debt payment.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  Yes.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  Yes. The debtor can object by arguing that the assignment harms and hinders its payment obligation.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  Having in mind that the credit assignment also includes the guarantees, any asset given as a guarantee that demands the respective register (mainly real estate), will oblige the creditor to also register the assignment. Hence, once the register is made, the assignment is opposable to third parties.

  If the assignment is made by judicial incident it also obliges the third parties that intervene in the proceedings.

  On other cases, the assignment must be evidenced in order to produced effects before third parties.

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ROMANIA

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [x]
- Purchase order — No [ ] Yes [x]
- Acknowledgment of purchase order — No [x] Yes [ ]
- Proof of delivery — No [ ] Yes [x]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [x] Yes [ ]
- Exchanges of correspondence — No [x] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [x]
- Other documents? — No [x] Yes [ ]

Those checked with "no" can be used in court to proof the claims, but they are not mandatory.

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [ ] Yes [x]
  If "Yes": a special form?

  Standard lawyers' power of attorney required by law.
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [ ] Yes [x]
  If "Yes": What type of back-up documentation?

  Proof of debt and title of creditor.
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [x] Yes [ ]
  If "Yes": any consequences?

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [x] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

By the agreement of the parties it can be modified.

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [x] 7 [ ] 8 [x] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

Legal interest is at the reference rate of the Romanian National Bank plus 8 percentage points above the reference rate. When the payment is made in foreign currency the legal interest is 6%.

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [x]
  If "Yes": any form?

  If the action is filled by a representative other than a lawyer, the representative must present an authenticated PoA. If it is filed by a lawyer, the power of attorney mentioned above is sufficient.

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  1. *First the Payment Ordinance (Ordonanță de plată) (regulated by articles 1014 - 1025 Civil Procedure Code). It is a simplified procedure in which the courts analyse whether the claim is proved in writing and if it is recognized by the debtor. Any challenge of the claim by the debtor that requires additional evidence, other than documents, the request will be rejected. In these circumstances the creditor must use a normal claim. The judgement can be appealed and is judged by the same court (another judge) who issued the original decision. This procedure is shorter and the fee is 200 RON - regardless of the amount of the claim).*

  - *Low value proceedings (Cerere cu valoare redusă) are available for applications up to 10,000 RON. The conditions of filling and procedure are like those for the Payment Ordinance. The differences are that it is a procedure that is carried out in writing without the presence of the parties, except in extraordinary situations. Evidence other than written documents may be admitted. The decision can be appealed.*

  2. *Common legal claims (cerere de chemare în judecată), which are judged according to the rules common to all processes. For this procedure the stamp duty is related to the value of the claims, being a percentage (decreasing proportionally from 8% - for claims of small values - to 1% - for claims exceeding 250,000 RON.*

- List of the names of the courts, in your language and in English translation, which will hear B2B claims In the first instance, they are materially competent to judge:

  - *Lower Court (judecătorie) - for disputes up to RON 200,000.*
  - *Tribunal (Tribunal) - for disputes over RON 200,000.*

  All the decision that are judged on the common legal procedure (not in the procedure of the Payment Ordinance or the Low value demand) are subject to appeal , which is judged by the next higher court.

  The judgments given in the appeal, can be submitted to recourse – recurs (an extraordinary way of challenging), which is judged by the court superior to the one who pronounced the judgement being appealed. In these circumstances, the High Court of Cassation and Justice (Înalta Curte de Casație și Justiție) can be a court of recourse for the judgments that were delivered in the first instance by the Tribunal.

- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [x] No [ ]
- Do you need a court representative? Yes [x] No [ ]

  Not necessary
- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]
- Costs (not fees) for instigating proceedings (e.g. court fee court costs; bailiff's costs for serving the complaint.

  Apart from the court fees, no other expenses are required to initiate the procedure
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [x] No [ ]

  Witnesses are admissible.
- Are written statements (affidavit) admitted? Yes [x] No [ ]

  According to our law, witnesses must be heard directly by the court. So written statements are not admissible, unless there is an absolute impossibility for the witness to be heard in person. However, evidence can also be administered between lawyers and during this procedure witnesses are heard by lawyers and their statement is recorded in writing. However, the court may re-examine the witness.
- What documents are requested to proceed?

  A claim file is made to the relevant court together with supporting documents.
- Any formalities to fulfil for bringing an action?

  The request for legal proceedings must contain certain elements that are required by art. 194 Code of Civil Procedure. The lack of some of these elements can lead to the cancellation of the request. The intention is that there is sufficient evidence for a clear determination of the procedural framework, thus assisting the court and allowing the defendant to defend.
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]
- Are Discovery proceedings allowed? Yes [x] No [x]

  There is an emergency procedure that allows the administration of the evidence (but only if there is a risk that this evidence will be lost over time). This procedure takes place before the court or (in exceptional cases) before the court executor certifying a factual situation. Another pre-trial procedure in which to administer evidence does not exist.
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No [x]
  If "Yes": describe the rules:

  In general, all proved costs and expenses are reimbursed to the winning party. In respect of lawyers fees', in accordance with art. 451 (2) Procedure Code: "The court may, even ex officio, reasonably reduce the part of the costs representing the attorneys' fees."
- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

  The court does not order the costs, but only at the request of the winning party. The judgment must provide for the reimbursement of expenses and their amount . If the court does not have the request the costs cannot be awarded.

- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  In accordance with art. 451 (2) Procedure Code: "The court may, even ex officio, reasonably reduce the part of the costs representing the attorneys' fees."

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  The defendant must request before the end of the trial that the creditor pays his expenses incurred in relation to the trial. The court may ex officio reduce the lawyer's fee paid by the debtor.

- What is the standard time frame for obtaining a judgment?

  Ten to sixteen Months

  The procedure of common legal procedure and the first decision, if there is no evidence required from experts or other procedural matters, could take between 10 to 16 months from the date of filing the application. To have a final decision all the appeal procedures must have been exhausted. The final judgment) which is enforceable, can take between 18 and 24 months.

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  Normally the deadline for lodging the appeal (for the common legal procedure) is 30 days, which is calculated from the date of communication of the decision in writing.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  As a rule, the judgment of the first court is provisional. In order to enforce it, the court must approve the provisionally enforcement. The court may establish a bond, the amount of which is determined by the court at the time of the application to enforce. Appeal judgments are enforceable. There is no need for the court to expressly enforce them and there is no bond for this. The enforcement procedure is carried out by a bailiff (executor judecătoresc) and, only if the enforcement documents are challenged, the court will rule.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  The enforcement procedure is carried out by the bailiff (executorul judecătoresc).

- Costs of enforcement?

  The costs of the enforcement are the bailiff's fee, court fee of 20 lei and expenses of the transmission of the execution documents, carrying out evaluative expertise, etc.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  As a rule, all the present and future assets of the debtor can be executed.

  Certain goods, which have a special purpose (such as, for example, European Union subsidies) can only be executed by the authorities dealing with the payment and pursuit of these subsidies. No other creditors can enforce this.

7. <u>Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:</u>

7.1. According to Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  Regarding the procedure of the Payment Order, the applicable Regulation is no. 1896/2006, and not Regulation 1215/2012 (or. 44/2001), and for the low value requests Regulation 861/2007 and no. 805/2004. In view of the mandatory force of the Regulations, the Romanian Civil Procedure Code does not contain provisions that contravene them, expressly specifying that, if there are contradictions between the national law and these Regulations, it is the Regulations which have priority.

- What are the documents required?

  A copy of the decision which satisfies the necessary conditions in order to establish the authenticity and a certificate which attests that the judgment is enforceable and contains a summary of the judgment.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The Tribunal is the instance who judge exequatur procedure (the recognition procedure).

- Costs?

  The stamp fee is 20 RON for the exequator procedure. To this are added the costs of translations and, possibly, the lawyer's fee, if the party wishes to be represented.

- Time frame for obtaining recognition and enforcement from your courts?
  between two and four months

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

According to art. 37 of the regulation, a judgment given in a Member State is treated as if it were delivered in the requested Member State. As a result, court rulings in another Member State are no longer subject to the recognition procedure (procedura exequatur-ului).

A party wishing to invoke a decision given in another Member State must presents a copy of the decision which satisfies the necessary conditions in order to establish the authenticity and the certificate provided in Annex no. I at the Regulation. Since in the Romanian courts (and in enforced execution) the official language is the Romanian, there must be a legalized translation of these documents.

In case of contesting the authenticity of the decision, it is for the contesting party to request the refusal of recognition. According to the European Court of Justice, the reasons for refusing to recognize a decision given in another Member State are also grounds for refusing enforcement and are limiting, and therefore are of strict interpretation and application. Under no circumstances may the judgment given in another Member State be subject to a substantive review.

The enforcement procedure will be carried out according to the same rules according to which the judgments given in Romania are enforced. Therefore, the issues mentioned in point 6 above are fully applicable for the judgments given after January 10, 2015.

- Conditions and test?
- What are the documents required?

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  In Romania, the doctrine is divided regarding the courts which should judge the refusal of recognition or enforcement. Part of the doctrine states that given that Romania has informed the European Commission that the Tribunal is the court applying the provisions of the Regulation then the Tribunal should be the instance that judges the request for refusal.

  Another part of the doctrine states that given that in accordance with national law the court (judecătoria) is the executing court, it should judge the request for refusal.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  According to art. 33 of the Convention, a judgment given in a State bound by this Convention is recognized in the other States bound by this Convention, without the need for any special procedure. A decision rendered in a State bound by this Convention and which is enforceable in the State concerned shall be enforced in another State bound by this Convention when it has been declared enforceable in the requested state. The applicant must choose a domicile within the territorial range of the court.

- What are the documents required?

  The applicant must submit a copy of the judgment which satisfies the conditions necessary to establish its authenticity. The party requesting the approval of the execution of a judgment must also present the certificate, the form of which is set out in Annex V to the Convention.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Tribunal (Tribunal) is the instance which declare enforceable the judgement given in another state.

8. Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:

The procedure for the recognition and enforcement of court decisions (other than those pronounced in EU member states or in Iceland, Norway and Switzerland) is regulated by art. 1095 - 1110 Romanian Procedure Code.

- Conditions and test?

  The judgements can be recognized in Romania if the following conditions are cumulatively fulfilled a) the decision is final according to the law of the state where it was issued, b) the court that ruled it had the jurisdiction to judge the case, and c) there is reciprocity regarding the effects of foreign decisions between Romania and the state of the court that issued the decision.

  The recognition of the foreign decision can be refused for reasons similar to those of Regulation no. 1215/2012. The Romanian court cannot proceed to the in-depth examination of the foreign decision nor to modify it.

  (1) Foreign judgments may be enforced in Romania, at the request of the person concerned, by the court in the area in which the execution is to be carried out.

- What are the documents required?

  The request for recognition must be accompanied by the following.

a) a copy of the foreign judgement;

b) proof that it is definitive and enforceable;

c) a copy of the proof of service of the documents on the defendant communicated to the defendant by the foreign court, or any other official document attesting that the summons and the document were known, in due time, by the defendant to which the judgment applies;

d) any other act capable of proving, in addition, that the foreign decision fulfils the other conditions.

All the documents provided if not in the Romanian language must will be accompanied by authorized translations and will be legalized.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  The Tribunal is the forum who judge the request for recognition or approval of enforcement of foreign judgement.

  The request for recognition may also be resolved by a court involved with another case with another cause of action in which the foreign judgement is invoked.

- Costs?

  Stamp fee of 20 lei for recognition, translation costs and, possibly, the lawyer's fee.

  The execution costs are the same as for the judgments given by the Romanian courts.

- Time frame for obtaining recognition and enforcement from your courts?

  The time should be between 2 and 6 months

9. <u>Are there any special remarks on the court system in your country?</u>

Currently the Romanian courts in many towns have a heavy workload and therefore the time between hearing can be considered long ((up to 30 days). The quality of judge may also vary from court to court.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  There are no restrictions on the sale (assignment) of a debt under Romanian law and under the law of other jurisdictions. There are several categories of persons who cannot be buyers (assignees) of third-party debts. This includes judges who delivered the judgment, lawyers who assisted the debtor, etc.

- What are the conditions and formalities for assigning a claim?

  The claim under Romanian law is assigned by the simple agreement of the assignor (seller) and the assignee (buyer), without notification to the debtor. The consent of the debtor is only required when, according to the circumstances, the debt is essentially related to the person of the creditor. For publicity and to make the assignment opposable to other parties and to acquire priority (if there are more than one assignees), the Assignment may be registered within the Electronic Archive of Movable Guarantees(Arhiva Electronică de Garanții Mobiliare).

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  The relationship between the parties is governed by the assignment agreement and which is a form of sales contract with consideration. It should be noted that the assignor (seller) is not responsible for the insolvency of the debtor, unless expressly obliged to be so in the agreement. As a general rule any guarantees follow the fate of the debt, so it is transferred to the assignee.

  If there are real estate guarantees (mortgages) for there to be an effective notice to third parties the assignment should be noted in the land book. If there are movable guarantees a note/reference must be made in the Electronic Archive of Movable Guarantees.

  The possession of the pledged asset is not transferred from the transferor to the transferee except with the agreement of the debtor.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  As a result of the assignment, the original debtor becomes the debtor of the assignee extinguishing any payment obligation towards the assignor.

  But the debtor is obliged to pay the transferee provided he has received and accepts the assignment by a document with a definite date, and receives a written notice of the assignment. The notification may be sent either by the assignor or the assignee.

  The Debtor cannot object to the assignment of the debt unless the original agreement provided for this eventuality in all other cases the assignment is enforceable against the debtor. The debtor in order not to pay may use the same defences and claims and any set-off that he would use against the assignor prior to the assignment.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  For publicity and to make the assignment opposable by other parties and to acquire priority (if there are more than one assignee), the Assignment may be registered within the Electronic Archive of Movable Guarantees(Arhiva Electronică de Garanții Mobiliare).

  If there are real estate guarantees (mortgages), for the objectivity to third parties, the assignment is noted in the land book. If there are movable guarantees, the notation is made in the Electronic Archive of Movable Guarantees.

October 25, 2019

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RUSSIA

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [x]
- Purchase order — No [ ] Yes [x]
- Acknowledgment of purchase order — No [ ] Yes [ ]
- Proof of delivery — No [ ] Yes [x]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [ ] Yes [x]
- Exchanges of correspondence — No [ ] Yes [x]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [ ]
- Other documents? — No [ ] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [ ] Yes [x]
  If "Yes": What type of back-up documentation?
  - *Contract*
  - *Purchase order*
  - *Proof of delivery*
  - *Invoice*
  - *General terms and conditions*
  - *Exchanges of correspondence*
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?

  All types of costs.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [ ] Yes [x]
  If "Yes": any consequences?

  According to the Russian legislation the pre-court dispute resolution procedure is obligatory. Subject to the above procedure a lawsuit can be filed to the court in a month.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [x] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [x] 7 [x] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. Court actions:

- Power of attorney? No [ ] Yes [x]
  If "Yes": any form?

  Power of attorney has to be notarized and legalized.

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  1. Производство в арбитражном суде первой инстанции: Разрешение спора по существу

  Proceedings in the arbitration court of first instance: adjudication of a dispute on the merits

  2. Производство в апелляционной инстанции: Рассмотрение дела по существу по имеющимся и вновь представленным доказательствам

  Appellate procedure: Consideration of the case on the merits on existing and newly submitted evidence

  3. Производство в кассационной инстанции: Проверка законности решений и постановлений

  Proceedings in cassational instance: verification of legality of decisions and resolutions

  4. Производство в порядке надзора: Пересмотр судебных актов

  Supervision proceedings: Review of judicial acts

  5. Пересмотр по вновь открывшимся обстоятельствам судебных актов арбитражного суда: Пересмотр судебных актов

  Review of judicial acts of the arbitration court on newly discovered circumstances: Review of judicial acts

  6. Исполнение судебных актов: Реализация принятых решений

  The enforcement of judicial decisions: Implementation of the decisions taken

- List of the names of the courts, in your language and in English translation, which will hear B2B claims In the first instance, they are materially competent to judge:

  - *Арбитражный суд / Commercial court*
  - *Апелляционный суд / Appellate court*
  - *Кассационный суд / Cassational court*
  - *Верховный суд / Supreme Court*

- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [x] No [ ]
- Do you need a court representative? Yes [x] No [ ]
- Do you need to post a bond when bringing proceedings? Yes [x] No [ ]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)
  - *state duties*
  - *bailiff's costs*
  - *court representative*
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [x]
- Are written statements (affidavit) admitted? Yes [x] No [ ]
- What documents are requested to proceed?
  - *Claims*
  - *Petitions*
- Any formalities to fulfil for bringing an action?
  - *Set of documents*
  - *State duty has to be paid*
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]
- Are Discovery proceedings allowed? Yes [x] No [ ]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No [x]
  If "Yes": describe the rules:

  Expenses are reimbursed within reasonable limits. Their assessment is made by court.
- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  Expenses are reimbursed within reasonable limits. Their assessment is made by court.
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  The winning party has to file a separate claim.
- What is the standard time frame for obtaining a judgment?

  3 Months for each instance.
- What is the time frame for lodging a recourse against the judgment rendered by the court?

30 days to appeal

6. <u>Enforcement of domestic judgments:</u>

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  The decision of the court shall be enforced after its entry into force, except in cases of immediate execution. Enforcement of domestic judgments is final. It is made on the basis of a writ of execution issued by the arbitration court. Enforcement is ensured through the Federal bailiffs service for execution.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Федеральная служба судебных приставов - The Federal bailiffs service

- Costs of enforcement?

  No fees for the claimant

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  There are some assets, which cannot be enforced:

  - *residential premises (parts thereof), if it is the only premises suitable for permanent residence;*
  - *personal belongings;*
  - *the property necessary for debtor's professional works;*
  - *food products;*
  - *livestock;*
  - *prizes, the state awards, honourable and memorable signs.*

7. <u>Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:</u>

7.1. According to Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  The Russian Federation is not a member of the European Union. Decisions of foreign courts shall be recognized and executed in the Russian Federation if it is stipulated by an international Treaty of the Russian Federation.

  Issues of recognition and enforcement of a foreign court decision and a foreign arbitral award shall be resolved by the court at the request of a party to a dispute considered by a foreign court.

- What are the documents required?

  1) Petition for recognition and enforcement of a foreign court decision

  2) duly certified copy of a foreign court decision;

  3) duly certified document confirming the entry of a foreign court decision into legal force;

4) duly certified document confirming that the debtor has been duly notified of the proceedings in a foreign court;

5) duly certified power of attorney;

6) the document confirming the delivery to the debtor of the copy of the statement for recognition and enforcement of the decision of foreign court;

7) duly certified translation of above mentioned documents into Russian;

8) document confirming payment of court fees.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Арбитражный суд / Commercial court - on commercial disputes

- Costs?

  State duty - 3000 Rubles (about 40 EUR)

- Time frame for obtaining recognition and enforcement from your courts?

  A decision of a foreign court may be submitted for enforcement within three years from the date of entry into force of the decision of a foreign court.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

9. Are there any special remarks on the court system in your country?

No special remarks.

10. Assignment of claim:

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  It is possible, but assignment of claim is not related to procedural rules, it is determined by substantive law.

- What are the conditions and formalities for assigning a claim?

  The court must be provided with documents on the sale of debt.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  The assignee has the same guarantees and rights.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  It is enforceable against the debtor. The debtor can object to it if an assignment of claim is forbidden by law.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  The debtor may raise all objections arising from the transferred obligation.

October 25, 2019

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SERBIA

1. Necessary documents for the lawyer to start the case

- Contract — No [x] Yes [ ]
- Purchase order — No [x] Yes [ ]
- Acknowledgment of purchase order — No [x] Yes [ ]
- Proof of delivery — No [x] Yes [ ]
- Invoice — No [x] Yes [ ]
- General terms and conditions — No [x] Yes [ ]
- Exchanges of correspondence — No [x] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [x] Yes [ ]
- Other documents? — No [ ] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [ ] Yes [x]
  If "Yes": a special form?

  No.
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [x] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [x] Yes [ ]
  If "Yes": any consequences?

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [x] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [x] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [x]
  If "Yes": any form?

  Written form is obligatory

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  Izvršni postupak/Executive proceedings:

  -Izvršenje na osnovu verodostojne isprave / Execution on the ground of an authentic act (used for monetary claims based on the invoice, bill of exchange and similar documents)

  -Izvršenje na osnovu izvršne isprave / Execution on the ground of an executive act (used for execution of final court decision)

  Parnični postupak/Litigation proceedings (in the cases when the debtor files the objection to the proposal for execution)

- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  Privredni sud / Commercial court

- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]

- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [x]

- Do you need a court representative? Yes [x] No [ ]

- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]

- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  Costs of the proceeding depend on the type of proceeding and the disputed amount

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [x]

- Are written statements (affidavit) admitted? Yes [x] No [ ]

- What documents are requested to proceed?

  All original documents supporting the claim are requested such as invoices, bills of exchange etc.

- Any formalities to fulfill for bringing an action?

  No.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]

- Are Discovery proceedings allowed? Yes [ ] No [x]

- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [x] No [ ]
  If "Yes": describe the rules:

  The costs are reimbursed to the winning party in accordance with the fees prescribed by the Court Fees Act and the Attorneys Fees Act

- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

  Yes, the court have to decide

- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that?
  If "Yes": describe the rules: Yes [x] No [ ]

  The amount of reimbursement of costs depends on the success in a proceeding

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party?
  If "Yes". How does it work? Yes [x] No [ ]

  In this case creditor will have to to pay the other party court and attorney fees

- What is the standard time frame for obtaining a judgment?

  1-2 years

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  8 /15 days

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  The judgement must be final, and the deadline for voluntary compliance must expire

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Javni izvršitelj /Public executer

- Costs of enforcement?

  It depends on disputed amount in each case.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Yes, enforcement is possible on all debtor s assets. There are not special regulations.

7. <u>Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:</u>

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.
- Costs?
- Time frame for obtaining recognition and enforcement from your courts?

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

**Serbia is not member of EU*

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  According to the Private International Law, conditions that must be fulfilled depend from the origin of the judgment

- What are the documents required?

  Power of Attorney, certified copy of the foreign judgment with evidence that the foreign judgment is enforceable in its country of origin, official translation of the judgment

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  Viši sud / Higher court

  Privredni sud / Commercial Court

- Costs?

16 EUR for domestication of non-EU judgment in front of Higher court, 160 EUR for domestication of non-EU judgment in front of Commercial court

- Time frame for obtaining recognition and enforcement from your courts?

  Approximately 6 months

9. <u>Are there any special remarks on the court system in your country?</u>

N/A

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  A creditor may assign his claim by a contract entered into with a third person, except a claim whose transfer is not permitted by statute, or which is restricted to creditor's person, or whose very nature is incompatible with transferring to another.

  A contract of assignment (cession) shall have no effect for a debtor if he and the creditor have stipulated that the latter shall not be able to assign the claim to another, or that he

  shall not assign it without the debtor's consent.

- What are the conditions and formalities for assigning a claim?

  Written form of contract and notification to the debtor

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  Presenting a Document on Debt:

  An assignor (person effecting cession) shall be bound to present to the assignee (recipient) a debenture bond or some other document on debt, should such be in his possession, as well as other proof on the assigned claim and on accessory rights. Should the assignor (person effecting cession) transfer to an assignee (recipient) only a part of the claim, he shall be bound to present to him a certified copy of the debenture bond or of some other document proving the existence of the assigned claim. He shall be bound, on his request, to issue to him a certified acknowledgment of the assignment.

  Guaranteeing the Existence of a Claim:

  After an assignment is effected by a contract with consideration, the assignor (person effecting cession) shall guarantee the existence of a claim at the moment of effecting the assignment.

  Guaranteeing Collectability:

  An assignor (person effecting cession) shall guarantee the collectability of an assigned claim, should this be stipulated, but only to the amount received from the recipient, as well as the collectability of the interest, expenses relating to assignment and expenses of proceedings against the debtor. It shall not be passible to stipulate a higher liability of a person effecting assignment (cession) being in good faith.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

An assignee (buyer) shall have the same rights against a debtor otherwise pertaining to the assignor (person effecting cession) against the debtor before the assignment (cession).

A debtor may raise against an assignee (recipient), in addition to objections he has against him, also those which he was able to raise against the assignor (person effecting cession) until the moment of his being notified of the assignment (cession).

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  In general it does not have any impact to the third parties.

  However, it would be possible to assignors creditors to challenge the particular assignment, if the assignment of claim was done to the detriment of such creditor and if conditions for challenge stipulated in Obligation code would be fulfilled.

October 30th, 2019

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SLOVAKIA

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [x]
- Purchase order — No [ ] Yes [x]
- Acknowledgment of purchase order — No [ ] Yes [x]
- Proof of delivery — No [ ] Yes [x]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [ ] Yes [x]
- Exchanges of correspondence — No [ ] Yes [x]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [x]
- Other documents? — No [x] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?

  Most of the lawyers attach a PoA to a dunning letter.
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [x] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?

  You can ask for costs connected with recovery of the claim in the amount of 40 EUR but only in cases between businessmen.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [x] Yes [ ]
  If "Yes": any consequences?

  You may go directly to court, but most of the creditors we represent try to collect the debts themselves and sent notices to debtors.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [x] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [x] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. Court actions:

- Power of attorney? No [ ] Yes [x]
  If "Yes": any form?
- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  Bringing an action requires delivering a written application to the District Court. Please note that in order to save time of the court you may attach to the claim a special form of payment order that is already almost completely filled in by the plaintiff. After obtaining of a valid court decision (that is an execution title) a written electronical application for enforcement shall be delivered direct to the District Court of Banská Bystrica. A written application shall be electronical signed by the applicant or according to power of attorney. The standard court fee for execution is EUR 16,50.

  From 1st. February 2017, the new Act no. 307/2016 Coll. on the dunning procedure introduces a new electronic payment order proceeding in our legal order, which will be an alternative to the abovementioned classical legal proceeding. Its aim is to speed up and streamline the court proceeding on monetary claims. Only cash claims can be made in the form of a dunning proceeding. The District Court of Banská Bystrica, is causally competent for the dunning procedure.
- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  Okresný súd – District court and Krajský súd - Country court
- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]

  Litigators usually ask for the conversion into euros of the claim expressed in foreign currency.
- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [x]
- Do you need a court representative? Yes [ ] No [x]
- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]

  Where possible and expedient, having regard to the nature and circumstances of the dispute, the court may impose an obligation on the proposer to lodge a security by order for damages or other harm which would arise by obtaining evidence. If the taking of evidence requires costs, the court order to the proposer to make an appropriate advance on the costs of obtaining evidence.
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  First instance claim fee (6% of the amount), further costs when applicable (expert opinion, second instance (appeal) fee, bailiff´s costs (16,50 EUR), etc.

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [x] No [ ]
- Are written statements (affidavit) admitted? Yes [x] No [ ]
- What documents are requested to proceed?

  Basically, the documents listed under question 1. above.
- Any formalities to fulfill for bringing an action?

  We just file the claim at the court via form and have to pay the court fees of 6% (there is a cap).
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]

  Exception is the Czech language.
- Are Discovery proceedings allowed? Yes [ ] No [x]

  However, upon motion of one party, the court may order the other party to produce documents.
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [x] No [ ]
  If "Yes": describe the rules:

  Part of the decision of court is verdict about the costs of the proceeding. Upon the Slovak Civil Proceeding Code the verdict about costs is dependent on the success of the party. If the party is successful in 100 % of the claim the court will levy the opposite party to pay 100 % of the costs. Costs are court fee, stamp duties etc. and if represented by attorney attorney´s fee in the amount counted from the Regulation about Attorney´s Fee. If the party is not successful in 100 %, the costs are lower about the percentage in which the party was not successful. There are some exceptions where the reimbursement of costs is not granted.
- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

  It is automatic on the basis of law.
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  The court has to decide about the lawyers´ fee. Reimbursement depends on the success of the party in the case. In case of the party is successful in 100 %, lawyers´ fee should be reimbursed in 100 %. The amount of lawyers´ fee depends on the amount of the claim and is regulated by the Regulation about Attorney´s fee. The amount also depends on the number of acts of lawyer in the case. Out-of-pocket expenses and travel costs are also reimbursed.
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  The court admit to the party compensation of the costs of the proceedings according to the proportion of its success.

  Usually the winning party is awarded so it is common, that in case you lose you have to pay the other party court and attorney fees as stipulated in the judgment.
- What is the standard time frame for obtaining a judgment?

12 Months for first instance payment order sometimes even less. But if there is a regular hearing it usually takes more like 24 months.

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  15 days

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  For being enforceable, judgments need not necessarily to be final, provided that the court has decided in its judgment that it could be enforced provisionally.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Bailiff (Súdny exekútor).

- Costs of enforcement?

  First of all, court fee for granting an authorization to enforcement (16,50 EUR). Further, the bailiffs' costs, that are fixed by the law. Most of those costs are to be repaid by debtor, so that this is only, on the creditor's part, an advance of funds (provided debtor can repay such costs). The standard bailiffs' fees are 20% plus VAT from the amount recovered from the debtor. The creditor pays any amounts to the bailiff only in case when an execution was not successful and the bailiff has not recovered any money. This amount is regulated by the law.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Basically, all the company's assets can be seized, unless otherwise specified by the law or unless they are already frozen by a prior seizure. As an example, the law states that once debtor is in bankruptcy, one cannot freeze assets, in connection with claims incurred prior to the opening of bankruptcy. Please note, that some of the assets owned by the state are protected from execution and bankruptcies as highways or hospitals and others.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  There is usually no review by the court of the substance of the foreign judgment given in another member state, and proceedings are brought in the absence of the party against whom enforcement is sought (i.e. "ex-parte" procedure).The judgment given in the member state of origin must be enforceable. The exequatur procedure may apply in some cases.

- What are the documents required?

  Copies of judgment and the certificate given in the member state of origin satisfying the conditions necessary to establish their authenticity, and translations.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Okresný súd (District court).

- Costs?

  66 EUR plus translation costs.

- Time frame for obtaining recognition and enforcement from your courts?

  There is no legal limit, or better to say they should do that within 30 days but that is a fiction.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  A judgment may be enforceable in another member state without any declaration of enforceability.

- What are the documents required?

  Copies of judgment and the certificate issued according to Article 53 certifying that the judgment is enforceable, translations.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Okresný súd (District court).

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  A judgment may be enforceable when it has been declared enforceable in another state.

- What are the documents required?

  Copies of judgment and the certificate given in the member state of origin satisfying the conditions necessary to establish their authenticity, and a certificate referred to in Article 54.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

Okresný súd (District court).

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  Foreign judgment needs to be enforceable in its country of origin. Foreign judgments are enforceable in Slovakia if they are in legal force upon statement of foreign court and are recognised in Slovak Republic. It also depends on the international treaty.

- What are the documents required?

  An authenticated copy of the foreign judgment (translated) and evidence that the foreign judgment is enforceable in its country of origin.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  Okresný súd – District court.

- Costs?

  No specific costs (save stamp duties in an amount of €66 and translation costs).

  Time frame for obtaining recognition and enforcement from your courts?

  This is a lengthy process.

9. <u>Are there any special remarks on the court system in your country?</u>

Not really.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes it is possible. The creditor may, without the debtor's consent, assign its claim to another person by written agreement.

  It is not possible to assign a claim which expires at the latest on the death of the creditor, or whose content would be changed by changing the creditor. Nor can a claim be assigned if it cannot be penalized by enforcement. A claim cannot be assigned if the assignment is contrary to law or to agreement with the debtor.

- What are the conditions and formalities for assigning a claim?

  As this is a significant change in the person of the creditor, the Civil Code for the assignment of claims stipulates a written form and at the same time stipulates which receivables are not eligible for assignment. The creditor may, without the debtor's consent, assign its claim to another by written agreement

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  The assignee becomes a creditor instead of the assignor upon the assignment of the claim and acquires the claim with all rights attached to it.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The assignment of a claim does not affect the debtor's rights or obligations under the obligation and therefore the assignment of the assignment contract does not require the debtor's consent. The purpose of legislation of the assignment procedure is to prevent the assignment of a claim to deteriorate the debtor's legal position.

  Yes it is enforceable against the debtor.

  To that end, it shall retained to debtor all objections to the assigned claim as well as the possibility to object his mutual claims against this claim.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  If the assignment of the assigned receivable is secured by a lien, surety or other means, the assignee shall report the assignment without undue delay to the person who provided the collateral.

October 30, 2019

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SLOVENIA

1. Necessary documents for the lawyer to start the case*

- Contract — No [x] Yes [ ]
- Purchase order — No [x] Yes [ ]
- Acknowledgment of purchase order — No [x] Yes [ ]
- Proof of delivery — No [x] Yes [ ]
- Invoice — No [x] Yes [ ]
- General terms and conditions — No [x] Yes [ ]
- Exchanges of correspondence — No [x] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [x] Yes [ ]
- Other documents? — No [x] Yes [ ]

** It is highly recommended that all the listed and other for a particular case relevant documents are provided to the lawyer. However, which documents must be provided to the lawyer in order to start a case, is a case by case decision (e.g. if the contract must be in accordance with the applicable legislation concluded in a written form, then such written contract must be provided to the lawyer…).*

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x*] Yes [ ]
  If "Yes": a special form?

  ** However, it is preferable that the Power of Attorney is granted in a written form and enclosed to the dunning letter.*
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [x*] Yes [ ]
  If "Yes": What type of back-up documentation?

  ** However, it is advised that the relevant back-up documentation (e.g. Invoice) is enclosed.*
- Can you claim recovery costs out of court? — No [x] Yes [ ]
  If "Yes": which?
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [x*] Yes [ ]
  If "Yes": any consequences?

  ** However, it is advisable to send a demand letter in order to avoid unnecessary legal proceedings.*

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [x] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

General standard statute of limitations is 5 years. For some types of claims the standard statute of limitations can be either lower or higher.

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [x] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. Court actions:

- Power of attorney? No [ ] Yes [x]
  If "Yes": any form?

  Written form is obligatory.
- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings
  - *"Izvršba na podlagi verodostojne listine" (Execution on the ground of an authentic act) is used for monetary claims based on an invoice, bill of exchange, cheque and other similar documents defined in the Enforcement and Securing of Civil Claims Act. The proposal for the execution on the ground of an authentic act must be filed in an electronic form, whereby at initiation of the procedure no documentation regarding the claim needs to be enclosed. Therefore, the first court decision is normally rendered within two weeks. However, the final success in this proceeding depends on whether the debtor files an appeal against the first court decision. If the debtor is successful with his appeal, then the execution procedure is transformed into a regular civil proceeding.*
  - *"Izvršba na podlagi izvršilnega naslova" (Execution on the ground of an executive act) is proceeding used to execute final court decisions, judicial settlements and legal acts in form of a notarial deed. Proposal for the execution on the ground of an executive act can be also filed in an electronic form.*
  - *"Izvršba na podlagi priložene menice" (Execution on the ground of enclosed bill of exchange) is used for the monetary claims based on the bill of exchange issued between business companies or entrepreneurs.*
  - *"Pravdni postopek" (Regular civil procedure) is normally started by creditors in cases, when execution on the ground of an authentic act (see point 1) is not possible (e.g. an authentic act not available, the claim is not monetary, etc.).*
- List of the names of the courts, in your language and in English translation, which will hear B2B claims
  - *"Okrajno sodišče v Ljubljani - Centralni oddelek za verodostojno listino" (District Court of Ljubljana - Central Department for Authentic Documents) – competent for the proceeding for the execution on the ground of an authentic act.*

- *"Okrajno sodišče" (District Court) – competent for the proceeding for the execution on the ground of executive act and execution on the ground of enclosed bill of exchange. There are 44 District Courts in Slovenia.*
- *"Okrožno sodišče" (County Court) have jurisdiction to run regular civil procedures. In Slovenia there are 11 County Courts.*

- Can you claim the payment in a foreign currency before your national courts? Yes [x*] No [ ]

  ** However, litigators usually ask for the conversion of the claim expressed in foreign currency into EUR.*

- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [x*]

  ** In case a foreign creditor starts a legal proceedings without a proxy in the Republic of Slovenia, then the creditor must appoint a representative that is domiciled in the Republic of Slovenia.*

- Do you need a court representative? Yes [ ] No [x]
- Do you need to post a bond when bringing proceedings? Yes [x*] No [ ]

  ** Foreign plaintiffs are under certain conditions stipulated in the Private International Law and Procedure Act obliged to post a bond.*

- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  ** Costs of the case depend on the type of proceeding, nature of the claim and the amount of the claim (regulated with the Court Fees Act).*

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [x]
- Are written statements (affidavit) admitted? Yes [x*] No [ ]

  ** Consent of the court is required.*

- What documents are requested to proceed?

  The documents listed above under question 1 are recommended to be provided to the court. All documents in a foreign language have to be translated into Slovenian language by a verified translator.

- Any formalities to fulfill for bringing an action?

  No. However, it is advisable to send a demand letter prior to instituting a case.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]
- Are Discovery proceedings allowed? Yes [ ] No [x]

  However, upon motion of one party submitted during the proceedings the court may under certain conditions order the other party to provide documents to the court.

- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [x] No [ ]
  If "Yes": describe the rules:

  The costs are reimbursed to the winning party in accordance with the fees stipulated by the Court Fees Act and the Attorneys Fees Act. In case that client and attorney agreed that that attorney is entitled to higher fees from those stipulated in the Attorneys Fees Act, then the

client as the winning party shall be reimbursed by the losing party only in accordance with the Attorneys Fees Act. Normally the actual attorney's fees are higher than the amount awarded to the winning party by the court.

- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

  It is necessary that parties to the proceedings demand reimbursement of their costs before the end of proceedings. Then the court decides over the reimbursement of costs.

- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [x] No [ ]
  If "Yes": describe the rules:

  The amount of reimbursement of costs usually depends on the success rate of each party in a proceeding (e.g.: if a plaintiff claims 100 EUR and the court awards to the plaintiff 60 EUR, then the defendant normally has to reimburse to the plaintiff 60 % of his costs, but on the other hand the plaintiff also has to reimburse the defendant 40 % of his costs).

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  See previous answer.

- What is the standard time frame for obtaining a judgment? ____ Months

  Time frame for obtaining a judgment depends on the nature and scope of each proceeding and also from the court competent for hearing the case.

  Normally in a regular civil procedure court decision of 1st degree is rendered in a period from 12 to 24 months.

  In the execution proceeding on the ground of an authentic act the first court decision is normally rendered within two weeks.

  In the execution proceeding on the ground of an executive act the court decision is usually rendered in a period from 1 to 3 months.

- What is the time frame for lodging a recourse against the judgment rendered by the court?
  - *execution proceedings - time frame for lodging a recourse is normally 8 days from the delivery of a court decision.*
  - *Regular civil procedure – time frame for lodging a recourse is normally 30 days from the delivery of a court decision.*

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  For being enforceable, judgment has to be final.

  A security ("Predhodna odredba") is advisable, if creditor has already obtained a judgement (or court decision) for monetary claim which is not final yet and there exists probable risk that later, when the judgment (or court decision) would become final, realization of the monetary claim might not be possible or would be difficult to execute it (e.g. debtor is selling its assets, etc.)

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

Okrajna sodišča (District Courts) with assistance of state executors, if their involvement, considering the type of the debtor's assets, is necessary.

- Costs of enforcement?

  Cost for the proposal for execution of a judgment is determined by the Court Fees Act. If a proposal for execution is filed in an electronic form (e. g. in the proceeding - Execution on the ground of an authentic act – electronic form is necessary.), court fee amounts 44 EUR.

  If a proposal for execution is filed in a written form, court fee amounts 55 EUR. Creditor also has to post a bond for the executor, if his assistance in the execution procedure is required.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  The Enforcement and Securing of Civil Claims Act determinates which debtor's assets can/cannot be seized. For example, if the debtor is a natural person, several types of assets cannot be seized (e.g. clothes, some household goods, wage up to amount of the 76 % minimum wage in the Republic of Slovenia, etc.).

7. <u>Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:</u>

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  For enforcement of judgment the conditions stipulated by the Regulation (EC) n° 44/2001 must be fulfilled.

- What are the documents required?

  - *A certified copy of the judgment to be enforced (certified translation of it into Slovenian language can be requested by the court).*
  - *A Certificate referred to in Articles 54 and 58 of the Regulation (EC) n° 44/2001 and a certified translation of it into Slovenian language.*

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The County Court (Okrožno sodišče) competent in the area, where the debtor has his domicile res. seat.

- Costs?

  According to the Court Fees Act the court fee for the proposal for recognition and enforcement is 16 EUR.

- Time frame for obtaining recognition and enforcement from your courts?

  Normally up to 5 months, however, the time frame can be longer if the debtor is appealing against the recognition of the judgement.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  Judgment is rendered in EU member state and is also enforceable in that EU member state.

- What are the documents required?
  - *A certified copy of the judgment to be enforced (certified translation of it into Slovenian language can be requested by the court).*
  - *Certificate issued pursuant to Article 53 Regulation (EU) n° 1215/2012 and a certified translation of it into Slovenian language if requested by the court.*
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The County Court (Okrožno sodišče) competent in the area, where the debtor has his domicile res. seat.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  For enforcement of EU judgment the conditions stipulated by the Lugano convention must be fulfilled.
- What are the documents required?
  - *A certified copy of the judgment to be enforced (certified translation of it into Slovenian language can be requested by the court).*
  - *A Certificate referred to in Articles 54 Lugano convention and a certified translation of it into Slovenian language*
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  The County Court (Okrožno sodišče) competent in the area, where the debtor has his domicile res. Seat

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  For enforcement of judgments given outside of EU member states, Iceland, Norway and Switzerland all conditions that are stipulated by the Private International Law and Procedure Act and international treaties must be fulfilled. Therefore, types of conditions that must be fulfilled depend from the origin of the judgment (i.e. in which country was judgment rendered).
- What are the documents required?

  The documents that are required depend on the origin of judgment. However, in each case a certified copy of the foreign judgment with evidence that the foreign judgment is enforceable in its country of origin and translation of it in Slovene language must be provided to the court.
- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  The County Court (Okrožno sodišče) competent in the area, where the debtor has his domicile res. seat
- Costs?

According to the Court Fees Act the court fee for the proposal for recognition and enforcement is 16 EUR.

- Time frame for obtaining recognition and enforcement from your courts?

  Normally up to 5 months, however, the time frame can be longer if the debtor is appealing against the recognition of the judgement.

9. <u>Are there any special remarks on the court system in your country?</u>

No.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes, it is possible. However, please note that it is not possible to assign claims, whose transfer is prohibited by law and those that are connected to the creditor's personality or whose nature opposes transfer to another.

  If the debtor and the creditor agreed that the creditor could not assign the claim to another assignment of claim shall have no legal effect. However, if the debtor and the creditor concluded commercial contract, with which they agreed that the creditor could not assign a pecuniary claim to another, the assignment of claim shall nevertheless have effect.

- What are the conditions and formalities for assigning a claim?

  Conclusion of contract about assignment of claim (written form is not mandatory) and the assignor's notification of the debtor regarding the assignment. Debtor's consent is not required.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  If the claim is assigned by a lucrative contract the assignor shall be liable for the existence of the claim when it was assigned. The assignor is also liable for the collectability of the assigned claim if such was agreed, but only up to the amount received from the assignee, and for the collectability of interest, costs in connection with assignment and costs in proceedings against the debtor. It shall not be possible to agree on greater liability for an assignor acting in good faith.

  The assignor must deliver a promissory note to the assignee if the assignor holds such, and other evidence on the assigned claim and accessory rights. If the assignor only transfers part of the claim to the assignee the assignor must deliver thereto a certified transcription of the promissory note proving the existence of the assigned claim. At the request of the assignee the assignor must issue certified confirmation of the assignment thereto.

  Together with claim itself all the accessory rights, such as the right to priority repayment, a mortgage, a pledge, the right from the surety contract, the right to interest and the right to contract penalty are transferred to the assignee. However the assignor may only deliver a pledged thing to the assignee, if the pledger consents thereto; otherwise the pledged thing shall remain with the assignor, in safekeeping for the assignee. There is also presumed that late payment interest that has fallen due but has not been paid is assigned with the principal claim.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  The assignee shall have the same rights against the debtor as those held thereagainst until the assignment by the assignor.

  Against the assignee the debtor may exercise the objections held against assignee and also those objections that could have been exercised against the assignor until the debtor became aware of the assignment.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  In general the third party cannot oppose to the assignment of claim.

  However, it would be possible to challenge particular assignment of claim by a creditor, whose debtor is the assignor, if the assignment of claim was done to the detriment of such creditor and if conditions for challenge stipulated in Obligation code would be fulfilled.

October 29th, 2019

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SPAIN

1. Necessary documents for the lawyer to start the case*

- Contract — No [x] Yes [x]
- Purchase order — No [ ] Yes [x]
- Acknowledgment of purchase order — No [x] Yes [ ]
- Proof of delivery — No [ ] Yes [x]
- Invoice — No [ ] Yes [x]
- General terms and conditions — No [ ] Yes [x]
- Exchanges of correspondence — No [x] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [x]
- Other documents? — No [ ] Yes [x]

  Power of attorney, translations and any document relevant for the case.

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [x] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [x] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [ ] Yes [x]
  If "Yes": What type of back-up documentation?

  Contract, invoice, exchange of correspondence, evidences of non-payment.
- Can you claim recovery costs out of court? — No [ ] Yes [x]
  If "Yes": which?

  Yes, just in case there are enough evidences to prove it, limited by law.
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [x] Yes [ ]
  If "Yes": any consequences?

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

5 (Spanish law), 10 years (Catalan law).

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [x] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [x]
  If "Yes": any form?

  It must be a notarial form, with a certified translation if it's not in Spanish. Also, Hague Apostilled (for countries added in Convention).

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  There're two standard types of proceedings to claim for debts:

  - *"Procedimiento Ordinario" (ordinary proceeding). To claim for:*
    - *Right to honor, family privacy and self-imagen*
    - *Corporate resolutions*
    - *Fair competition*
    - *General terms and conditions*
    - *Property claims (not for debts)*
    - *Homeowners association*
    - *Debts over six thousand euros (6,000€).*
  - *"Procedimiento verbal" (oral proceeding). To claim for everything not mentioned above and reclaim for less than six thousand euros debts.*

    Also, there are "special" proceedings as "monitorio" (reclaim for debts), capacidad de las personas (legal capacity of natural persons), proceso matrimonial (matrimonial proceedings), procesos de menores (underage proceedings).

  Special refer of "monitorio" proceeding: It's a special and summary proceeding for reclaiming debts. It's mandatory to have an invoice or some special document to prove the debt. If the debtor does not file opposition the judge sentences directly the payment order. In case the debts are over two thousand and the debtor files opposition the proceeding will change to a "procedimientoordinario", and if files opposition for less than two thousand the proceeding will change to a "procedimiento verbal".

- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  Juzgado de Primera Instancia (First instance Courts), Audiencia Provincial, Tribunal Superior de Justicia y Tribunal Supremo.

- Can you claim the payment in a foreign currency before your national courts? Yes [x] No [ ]

- Is election of domicile required when acting for a foreign creditor? Yes [ ] No [x]

- Do you need a court representative? Yes [ ] No [x]

  Under two thousand euros claim there is not needing of court representative.

- Do you need to post a bond when bringing proceedings? Yes [ ] No [x]

- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  Court representative costs.

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [x] No [ ]

But they're not the most powerful form to prove.

- Are written statements (affidavit) admitted? Yes [x] No [ ]
- What documents are requested to proceed?

  Power of attorney and judiciary fee receipt.
- Any formalities to fulfill for bringing an action?

  In case it's needed, POA lawyer and court representative. If the debt reclaim is presented by a company, it's needed a resolution of shareholders' meeting (just in high importance action).
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [x] No [ ]

  Not just translated, the translation must be certified. Obviously, this is not applied in national languages (such as Catalan or Basc).
- Are Discovery proceedings allowed? Yes [ ] No [x]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No [x]
  If "Yes": describe the rules:

  Yes, but just if the winning party wins all his claims.
- Does the court have to decide on such reimbursement or is it automatic? Yes [x] No [ ]

  The court must decide.
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [ ] No [x]
  If "Yes": describe the rules:

  All fees are reimbursed, but just in case they're in legal limits and the winning party wins all his claims.
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [x] No [ ]
  If "Yes". How does it work?

  If there is no doubt about what the court would sentence, or if all claims are rejected, the losing party has to pay costs.
- What is the standard time frame for obtaining a judgment? ____ Months

  About 17 months.
- What is the time frame for lodging a recourse against the judgment rendered by the court?

  "Recurso de apelación" (appeal recourse): 20 working days (Monday to Friday) from the notification.

6. <u>Enforcement of domestic judgments:</u>

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  It must be final; the provisional enforcement is just allowed in taxed conditions.

  Securities just in case of provisional enforcements.
- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

The first court that has sentenced the judgment, there is no bailiff figure.

I f the resolution is enforceable in the origin country, the national enforcement in Spain for EU member states, Iceland, Norway and Switzerland resolutions is automatic, no needing "exequatur" process (just in Denmark judgments)

- Costs of enforcement?

  No costs applied. Just if it mediates opposition against enforcement.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  The enforcement is possible on all debtor's assets, just limited in what it/he/she needs for paying "basic services". There is an order of preference: money, credits, jewelry, money rents, interests, movable properties, unmovable properties, salaries and finally long-term credits.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  If the resolution is enforceable in the origin country, the national enforcement in Spain for EU member states, Iceland, Norway and Switzerland resolutions is automatic, no needing "exequatur" process (just in Denmark judgments).

  Resolution must be translated.

- What are the documents required?

  Original resolution, article 54 certificate and certified translation. POA translated just in case it's requested by the Court.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  First Instance Court (Juzgado de Primera Instancia) of where accused domicile is. In some special enforcement proceedings (unmovable properties, for example) where the winner wants the resolution to be enforced.

- Costs?

  Not express for the enforcement proceeding, just for the court representative and lawyer fees.

- Time frame for obtaining recognition and enforcement from your courts?

  The enforcement has to be applied in less than five years, it usually takes between 3 and 5 months, depending on the Court.

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

If the resolution is enforceable in the origin country, the national enforcement in Spain for EU member states, Iceland, Norway and Switzerland resolutions is automatic, no needing "exequatur" process (just in Denmark judgments).

- Conditions and test?

Resolution must be translated

- What are the documents required?

  Original resolution, article 53 certificate and certified translation. POA translated just in case it's requested by the Court.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  First Instance Court (Juzgado de Primera Instancia) of where accused domicile is. In some special enforcement proceedings (unmovable properties, for example) where the winner wants the resolution to be enforced.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  The resolution must be enforceable in the origin country. The procedure to apply the foreign resolution is governed by the Spanish Law

- What are the documents required?

  Certified translation and original resolution are needed. Also, article 54 certificate.

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  First Instance Court (Juzgado de Primera Instancia) of where accused domicile is. In some special enforcement proceedings (unmovable properties, for example) where the winner wants the resolution to be enforced.

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  Specific conditions of bilateral treaties, if applicable. Exequatur process must be applied, it has to be recognized by Spanish Courts.

- What are the documents required?

  Original court judgment, with certified translation and other documents required by Treats.

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  First Instance Court (Juzgado de Primera Instancia) of where accused domicile is. In some special enforcement proceedings (unmovable properties, for example) where the winner wants the resolution to be enforced.

- Costs?

  Not specific costs, just court representative and lawyer fees.

- Time frame for obtaining recognition and enforcement from your courts?

  Between 3 and 5 months.

9. <u>Are there any special remarks on the court system in your country?</u>

Sometimes extremely formal procedures.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes, it's possible, there are few legal restrictions bust just applied in debts at issue situation.

- What are the conditions and formalities for assigning a claim?

  Acceptance of seller, acceptance of assignee and communication to debtor (notification). The notification to debtor it's not mandatory, but highly recommended.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  It's regulated on party autonomy.

  The assignor will guarantee for one year the existence of the debt and its "peaceful possession", except in debts at issue.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  It's enforceable against debtors, but just in case it has been well communicated. The debtor can object in some restricted cases.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  The assignment of claim can be opposed to third parties if it has followed properly the legal obligations.

October 29th, 2019

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SWITZERLAND

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [X]
- Purchase order — No [X] Yes [ ]
- Acknowledgment of purchase order — No [X] Yes [ ]
- Proof of delivery — No [ ] Yes [X]
- Invoice — No [ ] Yes [X]
- General terms and conditions — No [ ] Yes [X]
- Exchanges of correspondence — No [X] Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [X]
- Other documents? — No [X] Yes [ ]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [ ] Yes [X]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [X] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? — No [X] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [X] Yes [ ]
  If "Yes": which?
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [X] Yes [ ]
  If "Yes": any consequences?

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 10 [X] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [X] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

5. Court actions:

- Power of attorney? No [ ] Yes [X]
  If "Yes": any form?
- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  Betreibung Enforcement Procedure Betreibungsamt Enforcement Office

  Summarisches Verfahren Summary Procedure / Judicial Vitiation of Objection to Enforcement (With Title or Promissory Letter)

  Ordentliches Verfahren Ordinary Procedure Handelsgericht Commercial Court

  (Without a Title or Promissory Letter)
- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  Betreibungsamt Enforcement Office

  Judge in Summary Procedure Einzelrichter im summarischen Verfahren

  Handelsgericht Commercial Court
- Can you claim the payment in a foreign currency before your national courts? Yes [X] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [X] No [ ]
- Do you need a court representative? Yes [ ] No [X]
- Do you need to post a bond when bringing proceedings? Yes [X] No [ ]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiff's costs for serving the complaint, if any; court representative, etc.)
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [X]
- Are written statements (affidavit) admitted? Yes [X] No [ ]
- What documents are requested to proceed?

  None.
- Any formalities to fulfill for bringing an action?

  No.
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [X] No [ ]
- Are Discovery proceedings allowed? Yes [X] No [ ]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No [X]
  If "Yes": describe the rules:
- Does the court have to decide on such reimbursement or is it automatic? Yes [X] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [ ] No [X]
  If "Yes": describe the rules:

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? If "Yes". How does it work? Yes [ ] No [X]
- What is the standard time frame for obtaining a judgment? *8 Months*
- What is the time frame for lodging a recourse against the judgment rendered by the court?

  1 year

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  Not final, but enforceable. No security.
- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Rechtsöffnungsrichter im summarischen Verfahren / Judge concerning Vitiation of Objection to Enforcement in summary Procedure
- Costs of enforcement?

  Depending on the value of the claim in the title.
- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  An enforcement is not possible on pieces of competence (things the debtor needs for living).

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test? *n/a*
- What are the documents required? *n/a*
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation. *n/a*
- Costs? n/a
- Time frame for obtaining recognition and enforcement from your courts? *n/a*

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test? *n/a*
- What are the documents required? *n/a*
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation. *n/a*

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?
- What are the documents required?

  Certified copy of the judgment

  Certification concerning art. 54 and 58 of the Lugano convention

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  Rechtsöffnungsrichter im summarischen Verfahren / Judge concerning Vitiation of Objection to Enforcement in summary Procedure

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?
- What are the documents required?

  Certified copy of the judgment

  Confirmation that an appeal is no longer possible

  If the judgment was made in the absence of one party a confirmation that the absent party was summoned correctly and in due time so the party had enough time to defend itself

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  Rechtsöffnungsrichter im summarischen Verfahren / Judge concerning Vitiation of Objection to Enforcement in summary Procedure

- Costs?

  Depending on the value of the claim in the title.

- Time frame for obtaining recognition and enforcement from your courts?

  7 months.

9. <u>Are there any special remarks on the court system in your country?</u>

To start an enforcement procedure at the enforcement office no documents or proofs are necessary. The only thing which a debtor has to do is to fill out a form and submit it to the enforcement office.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  No.

- What are the conditions and formalities for assigning a claim?
- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?
- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?
- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

October 28, 2019

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TURKEY

1. Necessary documents for the lawyer to start the case

- Contract No [ ] Yes [X]
- Purchase order No [ ] Yes [X]
- Acknowledgment of purchase order No [ ] Yes [X]
- Proof of delivery No [ ] Yes [X]
- Invoice No [ ] Yes [X]
- General terms and conditions No [ ] Yes [X]
- Exchanges of correspondence No [ ] Yes [X]
- Know Your Customer checking (anti-money laundering regulations) No [ ] Yes [X]
- Other documents? No [ ] Yes [X]

  Original signed documents

  Contact Information

  Bank receipts showing the money transfers

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? No [ ] Yes [X]
  If "Yes": a special form?

  If the dunning letter is sent via Public Notary, the PoA is required. In such case PoA has to be notarized, apostilled and translated in Turkish and notarized by Turkish Public Notary. If the dunning letter is sent via registered mail with receipt, PoA is not needed.
- Format of the demand letter: any regulation from your bar? No [X] Yes [ ]
  If "Yes". Which regulation?
- Has back-up documentation to be attached to the demand letter? No [ ] Yes [X]
  If "Yes": What type of back-up documentation?

  It would be better to attached, but there is no strict form of these kind of documents.
- Can you claim recovery costs out of court? No [ ] Yes [X]
  If "Yes": which?

  Such as Translation fee and foreign attorney fee can be demanded.
- Is it compulsory to start by out of court collection No [ ] Yes [X]
  activities or can you directly bring proceedings before courts? If

  "Yes": any consequences?

  According to Turkish Law System, enforcement proceedings or lawsuit can be initiated without finding solution by out of court collection. It is not compulsory to start by out of collection. However for the commercial lawsuits, it is obligatory to apply to mediator before filing the lawsuit.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 10 [X] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [X] 10 [ ] 11 [ ] 12 [ ] %

In addition, according to the Turkish Commercial Code, the default interest rate is applied as %21.25 annually. In order to be able to claim the default interest from the debtor, the debtor must be failed to meet financial obligations and the creditor must have sent a notification letter to the debtor.

5. Court actions:

- Power of attorney? No [ ] Yes [X]
  If "Yes": any form?

  The PoA has to be notarized, apostilled and translated in Turkish and notarized by Turkish Public Notary.

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  There are several proceedings according to the Turkish Law System, depending on the crux of the dispute such as;

  Enforcement proceedings are as follows;

  - *Enforcement proceeding without a court judgement (İlamsız İcra Takibi) is a type of execution proceeding which can be executed without a court order.*
  - *Enforcement proceeding with a judgement (İlamlı İcra Takibi) is a type of execution proceeding which can be executed only with a court order ruled the amount due.*
  - *Enforcement proceedings pertaining to commercial papers and bills (Kambiyo Senetlerine Özgü İcra Takibi), shall be enforceable to the claims arising from commercial papers and bills.*
  - *Eviction of rented immovable properties enforcement (Kiralanan Taşınmazların İlamsız İcra Yolu ile Tahliyesi), is the eviction of the rented immovable without a court order.*
  - *Enforcement proceeding of foreclouse of pledged property (Rehnin Paraya Çevrilmesi Yoluyla Takip), if there a mortgage agreement in Turkish Law there is a rule to apply sale of the pledges which includes all immovable and movables priory.*
  - *Bankruptcy Proceedings (İflas Yoluyla Takip), is requesting the debtor's bankruptcy. This procedure is divided into two, one of them is for commercial papers and bills and the other one is non-fraudulent bankruptcy which does not require a court decision. However, the deed must be submitted for the bankruptcy proceedings based on the commercial papers and bills.*

If the lawsuit is to be filed (Dava ikame etmek), it will be sued in the competent court and after the jurisdiction finalized, as we mentioned above, the court's order shall be subjected to the enforcement proceedings with a court order.

- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  - *Commercial Court (Ticaret Mahkemesi) or Consumer Court (Tüketici Mahkemesi) are the first instance*

  courts which hears B2B claims.

  - *Regional Court of Justice (Bölge Adliye Mahkemesi) evaluates the objections made against the*

  judgments of the first instance court and is authorized to re-establish the dispute.

  - *Supreme Court (Yargıtay) is the last authority to finalize the jurisdiction. Request of appeals are examined in this court.*

- Can you claim the payment in a foreign currency before your national courts? Yes [X] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [X] No [ ]
- Do you need a court representative? Yes [ ] No [X]
- Do you need to post a bond when bringing proceedings? Yes [ ] No [X]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiff's costs for serving the complaint, if any; court representative, etc.

  - *In Turkish Law System there are several costs for filing a lawsuit, such as advance costs, application fee, expert fee etc.*
  - *Therefore, the advance cost is divided into two as proportional fee and fixed fee.*

  In cases where the subject matter of the suit is money or something that can be assessed with money, the proportional fee will be charged on the requested amount of the dispute.

  A court charge imposed pursuant to the Law on Charges in the amount of 6.831% of the Turkish Lira equivalent of the amount in dispute. In addition, one quarter of such charge is payable at the commencement of any suit or action and the remainder of which is payable upon the entry of judgment.

  Fixed fee is applied in other than cases subjected to proportional fee. If a lawsuit's subject is not measured with money or something that cannot be evaluated with money, fixed fee is applicable.

  Other than the proportional fee and fixed fee, advance fees which are expert fee, post fee, stamp fee, witness fee, fee of investigation at the site (depends on the nature of the claim) has to be paid while filing the case and during the judgment if these fees not sufficient the Court can rule parties to deposit more.

  - *Furthermore, to be able to commence execution proceedings there are several costs such as application fee, cost of collection, cost of notice etc.*

    For enforcement proceeding without a court judgment, fee is calculated at the rate of %0.5 of the receivable amount.

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [X] No [ ]

According to the Turkish Law, it exists a procedure for listening witnesses in court, however in some cases due to the amount of the file, the Court may reject to hear the witness.

- Are written statements (affidavit) admitted? Yes [ ] No [X]

  The witness's statement has to be given before the Court.

- What documents are requested to proceed?
  - *Lawsuit petition*
  - *Appendix of the lawsuit*
  - *Power of Attorney*
- Any formalities to fulfill for bringing an action?
  - *Application for mediator before filing a lawsuit. According to the new regulation for the cases which are valued with money, the application to mediator must be done. And if the parties cannot reach an agreement, then the claimant can file a lawsuit before the Courts.*
  - *Fulfilling the abovementioned documents*
  - *Fulfilling the payments of the lawsuit costs*
- Do documents in a foreign language need to be mandatorily translated in your language? Yes [X] No [ ]
- Are Discovery proceedings allowed? Yes [X] No [ ]
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [X] No [ ]
  If "Yes": describe the rules:
  - *According to the Turkish Law, except to the suitcases required by law it is regulated as the costs of the proceedings will be collected from the other party.*
  - *In the circumstances of both of the parties is partly justified in the suitcase, the court will allocate the costs of the proceedings according to the proportion of the parties' justness.*
  - *If there are more than one un-prevailing party, the court may decide to allocate the costs of the proceedings among them or to hold them jointly responsible.*
- Does the court have to decide on such reimbursement or is it automatic? Yes [X] No [ ]

  Litigation expenses are regulated under the 6100 numbered Code of Civil Procedure; since it is a regulated article the Court will decide ex officio. Even so it will be better to claim reimbursement in the lawsuit petitions.

- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [X] No [ ]
  If "Yes": describe the rules:

  Litigation expenses are also including the attorney's fee, since then abovementioned matters will be applicable in this matter. However the attorney fee ruled by the court is belong to the attorney and it is another attorney fee regulated under the Attorney Code and different from the attorney fee which is agreed with attorney and Client.

- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [X] No [ ]
  If "Yes". How does it work?

If the Creditor's claim is declined by the Court, then the Creditor has to pay the legal expenses of the wining party. These expenses are the expenses that the Wining party is made during the judgment and also the attorney fee of wining party will be paid by the Creditor. If the case is valued by a certain amount of money the attorney fee will be in proportion of the value of the case. However, if the lawsuit is not valued with a certain amount of money, then the attorney fee will be determined in accordance with Code.

- What is the standard time frame for obtaining a judgment?

  Approximately 1 or 2 years

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  Approximately 1 or 2 years

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  As a rule, finalization is not required for the execution of the court's order/decision. However, there are some exceptions of this rule for example court decisions given in family and personal law, decisions of Court of Exchequer or decisions given in negative declaratory actions, in this exceptional cases it is not possible to execute the decision without a final decision which can be given by the Regional Courts of Justice or Supreme Court of Appeals.

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Turkish Execution Offices (İcra Müdürlükleri) are authorized for performing execution proceedings in Turkey.

- Costs of enforcement?

  For enforcement of Court decision, the costs are fixed fee, post fee, stamp fee for Power of Attorney.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  In Turkish regulations all assets of the debtor may distrain except; public goods, retirement salary of debtor, the only house of the debtor, etc.

  Since Republic of Turkey is not a member of EU, and not a party of undermentioned EU Regulations and Lugano Convention, there is no existing system in Turkish law for the application or implementation of the following questions numbered 7, 8.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

- Costs?
- Time frame for obtaining recognition and enforcement from your courts?

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.
- Costs?
- Time frame for obtaining recognition and enforcement from your courts?

9. <u>Are there any special remarks on the court system in your country?</u>

- *Since Republic of Turkey is not a member of EU, and not a party of abovementioned EU Regulations and Lugano Convention; according to the Turkish Law, for foreigners to be able to levy an execution to collect their debt, foreign country's court decisions should be recognized and enforced by Turkish courts.*
- *The Act of Private International Law and International Procedural Law is the main legislation that regulates the enforcement and recognition. According to that law, for a foreign judgment decision to be able to recognition and enforcement in Turkish Law System; there must be a judgment given by the foreign courts and this must relate to civil claims and the decision must be final in accordance with the laws of that country. In addition, the enforcement of such decision must be exclusive to the Turkish court and the foreign judgment must be compliant with the Turkish public order.*
- *The Court of First Instance is the authorized court to hear cases relating to the recognition and enforcement of a foreign judgment.*
- *A foreign judgment must satisfy the requirements of being recognized and enforced in the Turkish courts in accordance with the Turkish Law. Once a foreign judgment has been enforced in the Turkish courts it shall be executed by Turkish authorities.*

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  The assignment of receivables is regulated under Articles 183 to 190 of the Turkish Code of Obligations numbered 6098. Pursuant to the Article 183, the assignor assigns its receivables arising from an obligation under a contract to a third party/assignee without the necessity of the consent of the debtor.

- What are the conditions and formalities for assigning a claim?

  The assignor should have the rights arising from these receivables.

  The assignment of receivables is subject to the validity of the main agreement. If the proceedings between the assignor and the assignee are invalid, then the assignment of receivables based on the main agreement shall be invalid.

  The assignment of receivables agreement shall be made in written form.

  The express intention, declaration, and signature of the assignor are the key aspect for assignment agreement to be valid.

  If a bank is the assignee, the bank will generally prefer and require the execution of the assignment of receivables agreement to be notarized.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  The Guarantees and rights relating to the claim can be alleged by the assignor.

  Also, we would like to inform that assignment of claim may be onerous or gratuitous. When the assignment is onerous, Article 191 Paragraph 1 of the Code obliges where the debt is assigned in exchange of a performance, the assignor guaranties the existence of the debt and debtor's ability to pay by the time of assignment. However, according to the Article 191 Paragraph 2, where the credit is not assigned in exchange of a valuable performance or as a requirement of law, assignor or former creditor is not responsible for the existence of the debt or for the solvency of the debtor.

  Article 193 of the Code regulates the scope of liability of security for assignor. Accordingly, assignee may request the following from the assignor who is obliged to warrant:

  - *Return of the valuable consideration plus interests.*
  - *Costs caused by the assignment.*
  - *Costs done for deriving the assigned credit and unsuccessful proceedings against the debtor.*
  - *Other damages unless the assignor proves strict liability.*

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  In conclusion of the assignment, the buyer takes over the debt and it is possible to enforce the debtor to pay the debt. If there is a valid assignment contract, the debtor cannot object to the buyer's payment demands.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

In accordance with the Turkish Code of Obligations numbered 6098; the buyer may assign his claims to a third party without consent of the debtor, unless it is against law, contract or the legal nature of the relation.

October 31, 2019

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AUSTRALIA

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes ☒
- Purchase order — No ☒ Yes [ ]
- Acknowledgment of purchase order — No ☒ Yes [ ]
- Proof of delivery — No ☒ Yes [ ]
- Invoice — No [ ] Yes ☒
- General terms and conditions — No [ ] Yes ☒
- Exchanges of correspondence — No ☒ Yes [ ]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes ☒
- Other documents? — No ☒ Yes [ ]

The items marked with a 'yes' are those that are definitely important for the solicitor to have prior to the commencement of any matter or the issuing of an initial letter of demand. Those marked as 'no' are not immediately necessary, but of course may be, depending on the instructions received.

For example, the detail of a dispute dispute may deem a Purchase Order or Proof of Delivery a critical document.

Of course, the more relevant documents relating to the transaction, the better. However, generally speaking, the necessary documents required from the outset are those that establish a prima facie claim and enough information to satisfy the lawyer that there is a proper basis for the contents of any letter and/or amount demanded.

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No ☒ Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [ ] Yes ☒
  If "Yes". Which regulation?

  Each State and Territory of Australia adheres to the Australian Competition and Consumer Commission Debt Collection Guidelines as well as applying their own professional practice and conduct rules to the practice of solicitors. Various law firms may also be subject to the rules arising from memberships with various bodies in the debt collection industry.

  However, any such regulation(s) will generally all require that letters of demand do not:

  - *Offend applicable consumer legislation;*
  - *Contain representations that are misleading or deceptive or are likely to mislead or deceive;*
  - *Make statements that are calculated to intimidate that other person;*
  - *Make statements that grossly exceeds the legitimate assertion of the rights or entitlement of the lawyer's client;*
  - *Create an impression that a possible consequence of not paying a debt is a definite consequence;*

- *Assert the right to payment of administrative and/or legal costs on top of a debt amount unless the lawyer's client has a legal entitlement to claim this amount;*
- *Create the impression that the letters of demand and any notices are documents that have been or are able to be filed with a Court.*

- Has back-up documentation to be attached to the demand letter? No ☒ Yes [ ]
  If "Yes": What type of back-up documentation?

  This is not a requirement, but it is good practice to attach all relevant documentation to the letter of demand. At a minimum, a copy of the outstanding invoice and/or document being the basis of the claim should be attached.

- Can you claim recovery costs out of court? No [ ] Yes ☒
  If "Yes": which?

  Costs to which the Creditor is entitled to as agreed in the contract between it and the Debtor (e.g. written Contract or Terms and Conditions of Trade).

- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? No ☒ Yes [ ]
  If "Yes": any consequences?

  Generally, no. However, various contracts and/or legislation for certain debts (e.g. building matters, proceedings commenced in the Federal Court) may require mandatory arbitration/mediation or evidence of genuine attempts to settle prior to the issuing of legal proceedings. If such provisions are mandatory or expressed as a "must" and are not complied with, then there may be a basis for the other side to stay such proceedings until the pre-litigation requirements are met.

3. <u>Statute of limitations:</u>

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 ☒ 10 [ ] 15 [ ] 30 [ ]

The statute of limitations varies from each State and Territory of Australia from three (3) years to six (6) years. The standard is six (6) years.

Time periods can also be extended by certain actions (e.g. written acknowledge of a debt, payments, Deeds)

The statute of limitations for the enforcement of a judgment also varies from each State and Territory from twelve (12) years to fifteen (15) years. The standard is twelve (12) years.

4. <u>Statutory interest rate in the absence of contractual provisions:</u>

What is the statutory rate in your country?

B2B: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

The statutory interest rate (or penalty interest rate) varies between each State and Territory of Australia as set by legislation in that State or Territory. The interest rates currently range from 9% to 12%.

The general interest rate that applies in Australia is the "cash rate target" set by the Reserve Bank of Australia. As at 2 October 2019, the cash rate target is 0.75%. Some calculations are tied to the cash rate target and are calculated using the cash rate target plus 2% - 6%.

5. <u>Court actions:</u>

- Power of attorney? No ☒ Yes [ ]
  If "Yes": any form?
- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  Common Law Claims

  Equitable Claims

  Statutory Claims
- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  The names of the Courts and monetary jurisdictions varies between each State and Territory of Australia, however, the general hierarchy is:

  Tribunal

  Magistrates' Court/Local Court

  County Court/District Court

  Supreme Court

  Federal Court

  High Court
- Can you claim the payment in a foreign currency before your national courts? Yes ☒ No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes ☒ No [ ]
- Do you need a court representative? Yes ☒ No ☒

  Individuals are not required by the Court Rules to be legally represented.

  Corporations are, however, required by the Court Rules to have legal representation although with leave of the Court and consent of the parties, Corporations may be allowed to undertake limited steps prior to trial without legal representation.
- Do you need to post a bond when bringing proceedings? Yes [ ] No ☒

  Generally, no. However, if a party is a foreign entity, the other party to the proceeding may make a Security for Costs application under the relevant Court Rules requiring that foreign body to pay monies into Court.
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  These costs vary between the various Courts in each State and Territory of Australia. They also increase each year or half year, depending on the Court.
- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes ☒ No [ ]

- Are written statements (affidavit) admitted? Yes ☒ No [ ]
- What documents are requested to proceed?

  Proper Basis Certification

  Overarching Obligations Certification/Genuine Steps Statement

  Initiating Document/Originating Motion

  Statement of Claim
- Any formalities to fulfill for bringing an action?

  Proper Basis Certification

  Overarching Obligations Certification/Genuine Steps Statement

  Initiating Document/Originating Motion

  Statement of Claim

  Filing fee

  Affidavit of Service
- Do documents in a foreign language need to be mandatorily translated in your language? Yes ☒ No [ ]
- Are Discovery proceedings allowed? Yes ☒ No [ ]

  For claims considered as "small claims" (i.e. generally under $10k), discovery proceedings are not allowed and/or are limited to minimise costs between the parties.
- Are all costs reimbursed to the winning party or only a limited list of costs? Yes [ ] No ☒
  If "Yes": describe the rules:

  Costs are generally awarded in accordance with the applicable Court Scale. Indemnity costs are awarded only in certain and/or exceptional circumstances.
- Does the court have to decide on such reimbursement or is it automatic? Yes ☒ No [ ]

  Generally, it is 'automatic' that the winning party is given a costs order in its favour. However, the amount is not automatic and may need to be 'as agreed' or 'as assessed' (by the Costs Court).
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes ☒ No [ ]
  If "Yes": describe the rules:

  Lawyers fees form part of the costs reimbursed to the winning party. Please see answers to the related questions above.
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [ ] No [ ]
  If "Yes". How does it work?

  The same principles in relation to Costs Orders in favour of successful parties to a proceeding apply here. Further, in the event that the Creditor discontinues/withdraws the proceeding at any point after issuing and prior to trial, the Creditor may be liable to pay the other side's costs arising from and connected to the discontinuance.
- What is the standard time frame for obtaining a judgment? ____ Months

  All things going well, the standard time from issuing a Court proceeding, filing and service and obtaining a default judgment therefore ranges from 6 to 8 weeks.

If the matter is defended, then the time frame is not able to be estimated as it will depend on the number of interlocutory processes required to be undertaken by the parties, the Court's timetabling of the matter, the Court's calendar for when it is able to list it for trial and if judgment together with the reasons for same cannot be handed down at the end of the trial, the judgment may be reserved, at which point the date for delivery of the judgment is also unknown.

- What is the time frame for lodging a recourse against the judgment rendered by the court?

  The time frame varies between the Courts across each State and Territory of Australia. It also depends on the nature of the appeal, the type of matter or judgment to which it relates and the number or hierarchy of the judge(s)/registrar that made the determination. The time frames generally range from fourteen (14) to forty-two (42) days.

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  Enforcement must be undertaken in respect of a final order.

  The Court may order stay on enforcement for a specified period of time.

  The type of enforcement itself may also impose restrictions (e.g. to proceed with a Bankruptcy Notice, the Creditor must have a judgment debt of at least $5,000.00 [current monetary threshold]).

- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Subject to the Court Rules, applicable legislation, treaties and/or conventions, all Courts in Australia are authorised to enforce judgments.

- Costs of enforcement?

  The costs of enforcement vary from each State and Territory of Australia as different processes and procedures required. The costs of enforcement in the Federal jurisdiction (i.e. bankruptcy and winding up proceedings) are more consistent.

- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  General restrictions exist in relation to assets subject to finance or held on trust by the debtor.

  More specific restrictions can also apply and they vary from each State and Territory of Australia.

  For example, in relation to an Attachment of Earnings application in the State of Victoria, the Court Rules impose an 80% protected earnings rate on the Judgment Debtor's income.

  In the example of a Sequestration Order, certain assets are protected under bankruptcy such as most household or personal items, tools used to earn an income, a motor vehicle (up to a certain value), superannuation funds and any awards of a cultural, academic or military nature.

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland, within EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?

  N/A

- What are the documents required?

  N/A

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  N/A

- Costs?

  N/A

- Time frame for obtaining recognition and enforcement from your courts?

  N/A

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?

  N/A

- What are the documents required?

  N/A

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  N/A

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?

  N/A

- What are the documents required?

  N/A

- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

  N/A

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?

  N/A

- What are the documents required?

  N/A

- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.

  N/A

- Costs?

  N/A

- Time frame for obtaining recognition and enforcement from your courts?

  N/A

9. <u>Are there any special remarks on the court system in your country?</u>

Statutory Regime

The Foreign Judgments Act 1991 (Cth) is the federal scheme that provides for enforcement by Australian Courts of foreign judgments which are registered in accordance with that Act.

Judgments that may be registered under the Act are judgments of superior Courts in the countries listed in the schedule to the Foreign Judgment Regulations (Cth) and judgments of particular inferior Courts listed in the Regulations.

Common Law

Courts may recognize and enforce judgments in personam of competent foreign courts to which the Act does not apply in accordance with applicable rules of private international law.

For registration and enforcement under the Statutory Regime or recognition under the Common Law, the judgment must also be fixed (or is a readily calculable sum) and is final and conclusive.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  It is possible for an assignor to assign a claim to an assignee. The restrictions will depend on whether it relates to an assignment of a debt or an assignment of a cause of action.

  Under the National Consumer Credit Protection Act 2009 (Cth), debt buyers must be licensed by the Australian Securities and Investments Commission (ASIC). There may also be State and Territory restrictions. For example, in Victoria the law states that if you are in a category of prohibited persons or prohibited companies, you must not purchase or accept an assignment to collect a consumer debt, even if an ASIC licence is held.

- What are the conditions and formalities for assigning a claim?

  The formal requirements for assigning a claim vary from each State and Territory of Australia. However, the general requirements to effect a legal (vs just an equitable) assignment are:

a) *The assignor has the right and title to assign the claim;*
b) *No restrictions prevent the party to whom the claim is being assigned to be the assignor of that claim;*
c) *The assignment must be absolute and not qualified or conditional;*
d) *A written Notice of Assignment is given to the affected party(ies).*

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  Unless rights of a claim are specifically carved out and excluded, the effect of a valid assignment is that the assignee takes/assumes all right, title and obligations of the claim from the assignor.

  Again, unless otherwise provided for in the agreement between the assignee and the assignor, guarantees relating to the claim are also assigned to the assignee.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  As the assignee has acquired all right, title and obligations of the claim from the assignor, the assignee is in a position to enforce that claim against the debtor.

  The debtor can "object to it" by challenging the validity of the assignment.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  As the assignee has acquired all right, title and obligations of the claim from the assignor, the assignee is responsible for all matters arising from and connected to that claim including dealing with third parties.

  Third parties can "oppose" the assignment by challenging the validity of the assignment.

21st October 2019

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BRAZIL

1. Necessary documents for the lawyer to start the case

- Contract — No [ ] Yes [X]
- Purchase order — No [ ] Yes [X]
- Acknowledgment of purchase order — No [ ] Yes [X]
- Proof of delivery — No [ ] Yes [X]
- Invoice — No [ ] Yes [X]
- General terms and conditions — No [ ] Yes [X]
- Exchanges of correspondence — No [ ] Yes [X]
- Know Your Customer checking (anti-money laundering regulations) — No [ ] Yes [X]
- Other documents? — No [ ] Yes [X]

2. Out of court collection (Dunning Letter):

- Is presentation of Power of attorney necessary? — No [X] Yes [ ]
  If "Yes": a special form?
- Format of the demand letter: any regulation from your bar? — No [X] Yes [ ]
  If "Yes". Which regulation?

  All the steps for a judicial or extrajudicial collection, must follow the provisions of the Consumer Defense Code, LEI Nº 8.078, of September 11, 1990. And also, in the Code of Civil Procedure, LEI 13.105/2015, of March 16, 2015
- Has back-up documentation to be attached to the demand letter? — No [X] Yes [ ]
  If "Yes": What type of back-up documentation?
- Can you claim recovery costs out of court? — No [X] Yes [ ]
  If "Yes": which?
- Is it compulsory to start by out of court collection activities or can you directly bring proceedings before courts? — No [X] Yes [ ]
  If "Yes": any consequences?

  Although friendly attempts are not mandatory, our policy is to always try amicably compose a payment agreement.

3. Statute of limitations:

What is the standard statute of limitations for B2B claims?

Years: 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [X] 6 [ ] 10 [ ] 15 [ ] 30 [ ]

4. Statutory interest rate in the absence of contractual provisions:

What is the statutory rate in your country?

B2B: 1 [X] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 [ ] 11 [ ] 12 [ ] %

(..-points above the base rate of the European Central Bank)

Obs. The legislation allows interest of up to 1% per month, with a maximum of 12% per year.

5. <u>Court actions:</u>

- Power of attorney? No [ ] Yes [X]
  If "Yes": any form?

P R O C U R A Ç Ã O	***POWER OF ATTORNEY***
*Pelo presente instrumento particular**,** _____**,** com endereço à _____, neste ato representada na forma de seus atos constitutivos.*	*By this particular instrument, _____ ___., with address to the _____ _____, hereby represented in the form of its constituent acts.*
*Nomeia e constitui seu bastante procurador o advogado **OCTAVIO JOSÉ ARONIS**, OAB/SP nº 70.929, CPF/MF nº 050.151.768-56, brasileiro, casado, com escritório em São Paulo, à Rua Afonso Braz, 579, conj. 125 – 12º andar, São Paulo, SP, Tel: (11) 3053 3036 – Fax: (11) 3052-3034, conferindo-lhe os poderes da cláusula **ad judicia et extra** e mais os que forem necessários à defesa dos direitos e interesses do outorgante, inclusive perante repartições públicas, quaisquer que sejam. Para fiel desempenho deste mandato, são conferidos também ao mencionado advogado, além dos poderes acima, mais os de confessar, transigir, dar e receber, quitar, firmar compromisso, assinar termos, concordar e discordar, e substabelecer **ESPECIALMENTE** para tratar dos assuntos relacionados à _____ e negociar acordo de pagamento junto a _____**,** outorgando-lhe, inclusive, poderes para firmar Termo de Acordo ou Instrumento Particular de Confissão de Dívida e aditamentos caso necessário.*	*The attorney named **OCTAVIO JOSÉ ARONIS**, OAB / SP No. 70.929, CPF / MF No. 050.151.768-56, Brazilian, married, with an office in São Paulo, at Rua Afonso Braz, 579, (11) 3053-3036 - Fax: (11) 3052-3034, granting it the powers of the clause **ad judicia et extra** and more that are necessary for the defense of the rights and interests of the grantor, including before public offices, whatever they may be. For the faithful performance of this mandate, the aforementioned attorney is also granted, in addition to the above powers, plus confessing, compromising, giving and receiving, withdrawing, signing commitment, signing terms, agreeing and disagreeing, and subscribing **SPECIALLY** to handle billing related issues _____ and negotiate a payment agreement with _____**,** also granting it the power to sign a Term of Agreement or Private Debt Admission Instrument and amendments if necessary.*
São Paulo, 13 de novembro de 2019.	*São Paulo, November, 13th 2019.*
_____	_____

- List of the proceedings which are available (with their names in your language and English translation) and briefly develop such proceedings

  Ação de Cobrança *is an action that aims to inform the debtor about his debt. It does not require prior communication or extrajudicial collection. In this action, there is no need to prove the debt with documents and the debtor has a broad right to adversarial proceedings. This action depends on the hearing, and on the debtor's response so that the judge can analyze all the information before ordering the party to pay.*

  Ação Monitoria, *requires that before going to court, the creditor must try to extrajudicially recover the amounts, and from there seeks the judge's declaration of the existence of the personal right to credit, ie, requires recognition that there is an obligation to be fulfilled by a debtor party. It requires that the debt be proved with documents*

  A Ação De Execução De Título Extrajudicial *is nothing more or less than a judicial action for the receipt of amounts arising from a specific credit instrument that was left open. It can be a check, a promissory note, debt acknowledgment contract, etc.*

- List of the names of the courts, in your language and in English translation, which will hear B2B claims

  Tribunal de Justiça

  Juizado Especial Cível (todos os estados e Distrito Federal)

  Court of Justice

  Special Civil Court (all states and Federal District)

- Can you claim the payment in a foreign currency before your national courts? Yes [X] No [ ]
- Is election of domicile required when acting for a foreign creditor? Yes [X] No [ ]
- Do you need a court representative? Yes [X] No [ ]
- Do you need to post a bond when bringing proceedings? Yes [X] No [ ]
- Costs (not fees) for instigating proceedings (e.g. stamp duties; court costs; bailiffs costs for serving the complaint, if any; court representative, etc.)

  THE JUDICIAL GUARANTEE FEE VARIES FROM 5 TO 20% OF THE VALUE OF THE APPLICATION. Court costs, power of attorney, subpoena, summons, court clerk, etc., vary according to the State in which the action will begin.

- Witnesses? Is it frequent to have witnesses in courts, like in the US? Yes [ ] No [X]
- Are written statements (affidavit) admitted? Yes [X] No [ ]
- What documents are requested to proceed?

  only documents proving the existence of the debt, invoices, contracts, proof of delivery, etc.

- Any formalities to fulfill for bringing an action?

  the main formality is that there is no doubt about the right to collect. Possess a sworn translation of the supporting documents for debit and POA.

- Do documents in a foreign language need to be mandatorily translated in your language? Yes [X] No [ ]
- Are Discovery proceedings allowed? Yes [X] No [ ]
- Are all costs reimbursed to the winning party or only a Yes [ ] No [X]

limited list of costs?
If "Yes": describe the rules:

- Does the court have to decide on such reimbursement or is it automatic? Yes [X] No [ ]
- Are lawyers' fees reimbursed to the winning party or only a portion? Does the court have to decide on that? Yes [ ] No [X]
  If "Yes": describe the rules:

  At the end of the Action, the judge determines that the loser pays the winner's fees, it varies from 5 to 20% of the value of the action.
- In case the claim is rejected can the creditor be sentenced to repay the fees and costs of the winning party? Yes [X] No [ ]
  If "Yes". How does it work?

  The judge of the action may order the losing party to pay the costs and lawyer's fees of the winning party.
- What is the standard time frame for obtaining a judgment?

  12 months for cases in the first instance.
- What is the time frame for lodging a recourse against the judgment rendered by the court?

  15 DAYS

6. Enforcement of domestic judgments:

- Conditions: final or not (re interim enforcement)? Other conditions? Necessity of a security?

  The judicial sentence must be enforced in the same procedure.
- Who can enforce judgments? List the name, in your language and English translation, of the officers/court authorized to enforce judgments.

  Judge of the case
- Costs of enforcement?

  There are no costs for an action to enforce a judicial sentence, since it occurs within the same procedure. only costs of summons and judicial officer
- Is enforcement possible on all debtor's assets or only on some assets? Are there any special regulations to obey in your country?

  Brazilian law allows the execution of debtors' assets, but there is a limit to what can be pledged to settle debts. Article 859 and others of Law No. 13.105, of 16 March 2015

7. Enforcement of judgments rendered in EU member states, Iceland, Norway and Switzerland:

7.1. Under Council Regulation (EC) n° 44/2001 of December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters for legal proceedings instituted before 10 January 2015:

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

- Costs?
- Time frame for obtaining recognition and enforcement from your courts?

7.2. Under Regulation (EU) n° 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) for legal proceedings instituted on or after 10 January 2015

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

7.3. Under the Lugano convention of 30 October 2007 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (applicable between EU members states, Iceland, Norway and Switzerland):

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of EU judgment in your country? Give its name in your language and English translation.

8. <u>Enforcement in Europe of judgments given outside of EU member states, Iceland, Norway and Switzerland:</u>

- Conditions and test?
- What are the documents required?
- Which court or officer (e.g. clerk of the court) decides on domestication of non-EU judgment in your country? Give its name in your language and in English translation.
- Costs?
- Time frame for obtaining recognition and enforcement from your courts?

9. <u>Are there any special remarks on the court system in your country?</u>

We should comment that, in addition to legal costs, the Brazilian courts require from foreign creditors who do not have assets, or representation in Brazil, a procedural guarantee, which must be provided in 5 to 20% of the value of the case, in accordance with article 83, of Law No. 13,105 of 16 March 2015.

Code of Civil Procedure.

Art. 83 The plaintiff, Brazilian or foreign, who resides outside Brazil or ceases to reside in the country during the processing of the proceeding, shall provide sufficient bond for the payment of costs and attorney's fees of the opposing party in the actions he proposes, if he does not have real estate in Brazil to ensure payment to them.

§ Paragraph 1. - The bond referred to in the caption sentence shall not be required:

I. when there is a waiver provided for in an international agreement or treaty to which Brazil is a party;

II. in the execution based on an extrajudicial title and in the fulfillment of a sentence;

III. in counterclaims.

§ Paragraph 2 - If in the process of the process the guarantee was lost, the interested party may demand reinforcement of the guarantee, justifying his request with the indication of the depreciation of the asset given as guarantee and the importance of the reinforcement he intends to obtain.

10. <u>Assignment of claim:</u>

- Is it possible for an assignor (seller) to assign a claim to an assignee (buyer)? Are there any restrictions?

  Yes, it's possible. The restrictions are: pledged credits, blocked in court and in cases where one of the parties does not agree to the assignment.

- What are the conditions and formalities for assigning a claim?

  The assignment of credit is the legal transaction where the creditor of an obligation, called assignor, transfers to a third party, called assignee, his active position in the bond relationship, regardless of the authorization of the debtor, which is called assigned. This legal act must be formalized through a commitment contract.

- What are the consequences/effects of an assignment of claim in the relations between the assignor (seller) and the assignee (buyer)? In particular, are the guarantees and rights relating to the claim also assigned to the assignee (buyer)?

  At the time of drawing up the credit assignment agreement, the assignor and assignee parties must have at their disposal the rules and the responsibility of each one for the credit. If total or partial, among other particularities that may be presented in the case.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and the debtor? Is it enforceable against the debtor? Can the debtor object to it?

  No, the debtor can't object to it.

  After proving the assignment of the credit, the debtor shall honor the debt, under penalty of execution judicial or extrajudicial.

- What are the consequences/effects of an assignment of claim in the relations between the assignee (buyer) and third parties other than the debtor? Can the assignment of claim be also opposed to such third parties?

  Not usually. In commercial relations, it is not common for responsibility to lie with third parties. But it can happen that a company's responsibility eventually falls on its partners.

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