

IC2BE SPAIN NATIONAL REPORT

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(consumer associations; lawyers & judges)
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I. Spanish Practice: some figures

<i>GENERAL OVERVIEW</i>			
First Instance	Provincial Audiences	Superior Courts of Justice	Supreme Court
No data	94	1	1
<i>REGULATIONS' cases</i>			
EOP	EEO	SCP	APO
76 (78,35%)	13 (13,40%)	6 (6,18%)	1 (2,06%)

II.1 European Enforcement Order (EEO)

Parties			
Companies		Companies and consumers	individuals
8 (61,53%)		4 (30,76%)	1 (7,69%)
Cases Typology			
Financial issues	Commercial issues	Labour issues	Immovable property issues
3 (50%)	1 (16,66%)	1 (16,66%)	1 (16,66%)
Amount of the debts			
10.000-50.000 €	200.000-500.000 €	1.001-10.000 €	500.000-1 mil. €
5 (38,46%)	3 (23,07%)	1 (7,69%)	1 (7,69%)
Length of the proceedings			
6 – 12 months		12 – 24 months	
8 (61,53%)		5 (48,46%)	

Some opinions:

- ▶ Resorting to BlbisR is more familiar and, from that perspective, safer: longer life and, therefore, more extensive experience
- ▶ The EEO Regulation's allows suppression of exequatur in areas where BlbisR is not applicable: family relations, maintenance

II.2 European Order for Payment (EOP)

Parties			
Companies and individuals		Companies	
67 (88,15%)		9 (11,84%)	
Cases Typology			
Consumer's claim	Financial issues		Commercial issues
36 (50%)	29 (38,6%)		10 (13,33%)
Amount of the debts			
Under 1.000 €	1.001-10.000 €		10.000-50.000 €
11 (14,47%)	10 (13,15%)		1 (1,31%)
Length of the proceedings			
6 – 12 months	6 weeks – 6 months	12 – 24 months	24 – 36 months
41 (53,94%)	22 (35,52%)	7 (9,21%)	1 (1,31%)

Some opinions:

- ▶ The EOP is the most cited & used Regulation.
 - ▶ In many cases national courts refer to the EOP for interpretative purposes.
- ▶ Great advantage: the procedure finishes if the defendant opposes.
- ▶ Great problem: lack of control (consumer cases)

II.3 European Small Claims Procedure (SCP)

Parties		
Companies	Companies and individuals	
2 (33,34%)	4 (66,66%)	
Cases Typology		
Consumer	Professional payments debts	Industrial or commercial area
2 (33,33%)	2 (33,33%)	2 (33,33%)
Amount of the debts		
Unknown	1.001-10.000 €	Under 1.000 €
3 (50%)	2 (33,33%)	1 (16,66%)
Length of the proceedings		
12 – 24 months	6 – 12 months	6 weeks – 6 months
3 (50%)	2 (33,33%)	1 (16,66%)

Some opinions:

- ▶ The SCP Regulation has almost no use
- ▶ Discrepancies on the economic threshold: tough some considered it appropriate, others argued that its economic threshold is small.
- ▶ Litigating without legal assistance entails high risks: individual or SME should go on trial with a lawyer.

II.4 European Account Preservation Order (APO)

<i>Parties</i>	
<i>Companies</i>	
2 (100%)	
<i>Cases Typology</i>	
<i>Banks confronted with a financial claim</i>	
100%	
<i>Amount of the debts</i>	
<i>10.000-50.000 €</i>	<i>50.000-200.000 €</i>
1 (50%)	1 (50%)
<i>Length of the proceedings</i>	
<i>12 – 24 months</i>	<i>6 weeks – 6 months</i>
1 (50%)	1 (50%)

Some opinions:

- ▶ The APO Regulation's live is still too short. It is considered a useful tool.
- ▶ Discrepancies as to the adequacy of the time when the bank information can be requested under the Regulation.
- ▶ Some consider that article 14 wording is not clear enough and that the creditor should have sufficient access to information as soon as possible.

III. “No” problems

- ▶ The use of different languages and the need for translations: not a major problem.
- ▶ The low speed of Proceedings: regular feature of the Spanish judicial system.
- ▶ The costs of the Proceedings: not very different from the regular national ones. Translations are the main element that can raise them.
- ▶ Forms are very welcomed: simplify and ease the procedure, also reducing costs.
- ▶ Modern information technology: eases oral hearings when (exceptionally) required and helps to reduce costs

IV. Pervasive problems

- ▶ Lack of awareness practitioners, consumer and judges.
 - ▶ *"Lawyers ignore the existence of these Regulations"*
 - ▶ *"They are not playing the role for which they were designed"*
- ▶ Service of documents: lack of information about the debtor's domicile & the difficulties associated to find out this essential data (i.e: changes of residence).
- ▶ Consumer's protection:
 - ▶ jurisdiction rules: **Ok**
 - ▶ abusive clauses' control? **Cases before CJEU: *Bondora*** (C-453/18 and C-494/18) & ***Investcapital*** (C-524/19)
 - ▶ *Regulations are considered insufficient means to protect*

V. Conclusions and Recommendations

- ▶ Little use mainly due to lack of awareness
- ▶ Regulations are seen positively in Spain:
 - ▶ Recent statistics shows a (general) decrease in cases' numbers
- ▶ The main general concerns relate to:
 - ▶ the service of documents
 - ▶ consumer's protection (particularly under the EOP)
- ▶ It is recommended:
 - ▶ Further dissemination and training: lawyers, judges & court attorneys.

The background features abstract, overlapping green geometric shapes, primarily triangles and polygons, in various shades of green, creating a modern and dynamic visual effect.

Thank you for your attention

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