



A practical simulation of EPO and ESCP:  
Legal Framework  
II Practical Issues

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# Introduction

- Purpose of simulation:
  - examine practical issues involved in filing a suit under EPO and ESCP
  - Reflection of success of trans-border claims
- Method:
  - Follow steps of procedure from claimant and court perspective
  - Highlight problems

# Highlight

- EPO & ESCP for citizens and businesses
  - NOT FOR LAWYERS!!!!

# Main problems

1. Expectations
2. Ease of form filling
3. Technical
4. Communication with the court and responsibilities

# Expectations

- European Payment Order:
  - summary judgment
  - enforcement? Issue is unclear from information on website.

# Form filling

- Language?
  - One shotter v. repeat player
- Scope/jurisdiction
  - Complexity of case?
    - may also affect language needed
    - Type of case limited also
  - Where to file?
    - Complex rules of jurisdiction (esp. different types of courts)
    - Extra guidance?

# Form filling contd

- Attackable assets?
  - Notice of warning
  - Right to sue v. efficiency
  - Privacy?
  - How to identify?
  - Need for lawyer?

# Court fees

- Different jurisdictions = different rules
- Possibilities extend beyond those offered by the website (especially for Italy)
- Impossible to know unless someone communicates how to pay
- Privacy issues on data protection



# Calculating interest

- Claimant needs to fill in something
- Website unhelpful
  - Applicable law?
  - Material calculation?

# Technical problem

- Saving data on the form problematic
- No problem with electronic identification as with other cross border projects requiring identification

# Communication with court

- Procedural steps: EPO SUPPOSED TO BE ONE STEP
  - Issuance of EPO- requires service on debtor by the claimant, but no information actively given to claimant as to issuance of EPO
  - Physical presence needed to obtain EPO
  - Can turn into a civil suit if challenged by debtor, requiring more activity by claimant.
  - Enforcement of EPO separate
  - Language of communication in Italian

# Communication for ESCP

- Timelines not compulsory for courts.
- Courts do not use the forms provided for by the e-justice portal but domestic law forms
- Language of communication in Italian
- Physical presence required for oral proceedings
- Enforcement separate proceeding (lawyer needed)

# Conclusions

- Who are these proceedings aimed at?
  - One shotters v. repeat players
  - “European citizen”?
- Institutional support
  - FAQ
  - Further guidance beyond the initial guidelines
  - Linguistic support (e.g. translation services)
  - Interface with domestic procedures
  - Interface with court staff