Civilinės teisenos srityje nebaigtos procedūros ir procesai, pradėti iki pereinamojo laikotarpio pabaigos, bus tęsiami pagal ES teisę. Remiantis abipusiu susitarimu su Jungtine Karalyste, atitinkama su Jungtine Karalyste susijusi informacija E. teisingumo portale bus saugoma iki 2024 m. pabaigos.

European enforcement order

Gibraltaras

1. Procedures for rectification and withdrawal (Art. 10(2))

By virtue of Rule 6 of the Gibraltar Supreme Court Rules, the Civil Procedure Rules for England and Wales apply in Gibraltar.

Article 10 refers to the entitlement to apply to the court to have a certificate rectified (if it is at variance with the judgment) or withdrawn (if it is at variance with the Regulation). The procedure that is in place to deal with these situations is Part 23 of the Civil Procedure Rules which contains the rules for making applications to the court. An application under Article 10 will be made to the court which issued the European Enforcement Order using the procedure in Part 23. European Enforcement Orders will be made in Gibraltar by the Supreme Court.

The application will be made on an application notice known as Form (*) N244 The application notice must state what order the applicant is seeking (i.e an order for rectification or withdrawal) and why the applicant is seeking the order (for example, because there is a discrepancy in the certificate).

http://www.justice.gov.uk/civil/procrules_fin/contents/parts/part74.htm

Part 74.27 of the Civil Procedure Rules and it accompanying Practice Direction, Practice Direction 74B contain provisions for the European Enforcement Order in England and Wales including procedures for rectification and withdrawal.

(*) UK confirms that the standard forms in the Regulation will be used. Annexes I-V of the R egulation are the forms in which the certificates shall be issued by the court. Creditors will use the relevant UK court forms to make the requisite applications and the certificate will be issued in the form provided by the Regulation. It is envisaged that an application under Article 10(3) may be made using UK´s standard form of application or the form at Annex VI of the Regulation.

2. Procedures for review (Art.19 (1))

By virtue of Rule 6 of the Gibraltar Supreme Court Rules, the Civil Procedure Rules for England and Wales apply in Gibraltar.

The Rules of Court for England and Wales made under the Civil Procedure Act 1997 will be used to give effect to this Regulation. These Rules of Court are known as the Civil Procedure Rules (CPR) and are made by statutory instrument.

Article 19(1) requires that the debtor must be entitled to apply for a review of the judgment in circumstances where the document instituting the proceedings did not reach him or he was prevented from objecting to the claim through no fault of his own.

Part 13 of the CPR will permit the judgment debtor to apply for a review of the judgment in the circumstances described in Article 19. It sets out the procedure for making an application to set aside or vary default judgment. Default judgment can be obtained where the judgment debtor has failed to file an acknowledgment of service and/or a defence.

The full text of Part 13 can be found at: http://www.dca.gov.uk/civil/procrules_fin/contents/parts/part13.htm

No forms are prescribed for making an application to set aside or vary default judgment. It is usual for the applicant to make the application using the application notice in Form N244 (http://www.hmcourts-service.gov.uk/courtfinder/forms/n244_eng.pdf). The applicant should state the order he wants and why judgment should be set aside or varied, for example because he was not served the proceedings in sufficient time to prepare his defence. The hearing of that application will entail a review of the judgment.

3. Accepted languages (Article 20(2)(c))

Certificates sent to Gibraltar will be accepted in English.

4. Authorities designated for the purpose of certifying authentic instruments (Art. 25)

While Authentic Instruments from other Member States will be enforced in Gibraltar they are not produced in Gibraltar. Therefore there is no need to designate an authority to certify them.

Last update: 05/07/2016

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