

**Public Hearing on Improving the Enforcement of Judgments
and facilitating cross-border debt recovery**

Brussels, 1 June 2010, 9:00-13:00

Conference Centre Albert Borchette, Room OA

Summary presentation of Prof. Burkhard Hess

University of Heidelberg, DE

Prof. Burkhard Hess (University of Heidelberg, DE) spoke in relation to Option 2 ('Brussels 1'). He estimated that only 1-3% of civil proceedings are cross-border in nature. Nevertheless, the current system in relation to cross-border debt recovery was unsatisfactory with many different enforcement systems. Cross-border cases were also much more expensive with the need for several lawyers and parallel proceedings. Given these and other complications, many creditors simply write off their debts. If a European freezing order was created, it could encourage parties to negotiate, rendering the need for a bank attachment unnecessary.

The question is whether a European bank attachment order should be part of the Brussels 1 regulation or simply aligned with it. An advantage of the former approach is that it would improve transparency. At present there is a multitude of different EU instruments and bringing them together under one overall framework, especially one as well-known as Brussels 1, would have advantages. An alternative approach is to have a separate instrument but with cross-referencing to Article 31 of the Brussels 1 Regulation. Under option 2 it would be possible to propose a suppression of the exequatur for the enforcement of protective measures; however, a self-standing European procedure for bank attachment could only be created through a specific instrument (Regulation).