

Provisional Enforcement

| | Type of title (Art. 32 Reg. 44/01) | Provisional Enforceability operating by law or ordered by the court | Conditions | Extent of provisional enforceability - seizure - compulsory sale | Security to be posted by the judgment creditor | Security to be posted by the judgment debtor | Conditions for stay of P.E. | Measures available under Art. 47 §1 Reg. 44/01 | Improvements | Measures available under Art. 47 § 2 Reg. 44/01 Improvements |
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| Austria | <p>Judgments of 1st and 2nd instance on monetary claims (including decision on costs); decisions on costs in case of judgments on non-monetary claims</p> <p>Orders for payment in case of application for leave for special appeal after appeal period has expired (<i>Wiedereinsetzung</i>; else the order is final and enforceable as such)</p> <p>All titles (e.g. notarized documents): In case of final execution of due instalments of alimony claims and tortious maintenance claims, additionally P.E. (seizure) is possible with respect to instalments becoming due within one year (372 EO)</p> <p>No P.E. in case of judgment based on partial acknowledgement when debtor still claims set off.</p> <p>Special rules in labour and social matters</p> <p>Provisional measures are directly enforceable.</p> | <p>P.E. as such operates by law</p> <p>However, like final execution, P.E. (Sicherstellungs-exekution) must be ordered by decision of trial court or enforcement court on basis of the title</p> | <p>General: enforcement must not have already been otherwise secured</p> <p>1) Judgments of 1st instance based on acknowledgement, default judgments, orders for payment; judgments of second instance:</p> <p>no additional conditions;</p> <p>2) ELSE: a) Special interest of creditor (370 EO): - danger of frustration - risk that execution will become much more burdensome in the future, - danger of need for enforcement in a non Member State of the Brussels Regulation/ Lugano Convention OR: b) Security is posted by creditor (371a EO; only in case of judgments! (1st+2nd instance))</p> <p>3) Maintenance claims: final enforcement concerning due instalments</p> | <p>Sicherstellungs-exekution allows in principle only for seizure of the assets</p> <p>Exceptions:</p> <p>- forced administration of real estate is possible</p> <p>- attached claims can be realised in case of danger of deterioration of the value of the attached claim</p> <p>The revenues thereof remain in possession of the court until final enforcement is possible</p> <p>Strict liability of the creditor if judgment is modified on appeal (376 II EO)</p> | <p>In case of appealed judgments of 1st and 2nd instance, creditor will obtain P.E. if ready to post security</p> <p>Discretion of court with regard to amount and kind of security</p> | <p>P.E. will be stayed if debtor posts security</p> | <p>Application of debtor, Security must be posted in form of money, security papers or bank guarantee (bank must be solvent); creditor can accept other forms</p> | <p>Provisional Measures (Einstweilige Verfügungen)</p> <p>Debated whether Sicherstellungs-exekution is available</p> | <p>Maybe slight improvement in speed</p> | <p>Protective execution measures</p> <p>Debateable whether other measures are available if they do not result in a permanent change to the situation</p> |

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| Belgium | <p>Most Judgments (<i>jugements, arrêts, ordonnances</i>)</p> <p>No P.E. in matrimonial and family matters</p> | <p>Both forms exist.</p> <p>P.E. operating by law: must be expressly ordered by statute; e.g. order for “<i>mesure d’instruction</i>”, most ex parte decisions</p> <p>General rule: judge (deciding on the merits or appeal judge) can order P.E.</p> | <p>By law : expressly ordered by statute;</p> <p>P.E. can be made subject to posting of security at discretion of court</p> <p>Ordered by court:</p> <ul style="list-style-type: none"> -Application of party - Discretion of court; P.E. can be made subject to posting of security <p>P.E. is not limited to specific kind of claims (e.g. monetary claims)</p> | <p>P.E. allows for seizure and realization of debtor’s assets</p> <p>Strict liability of the creditor if judgment is modified on appeal (1398 CJ)</p> | <p>Discretion of court</p> | <p>P.E. can be avoided by posting of security (cantonnement)</p> <p>Exception :</p> <ul style="list-style-type: none"> -alimony claim - judge can disallow posting of security by debtor in case non-execution would cause significant prejudice [hardship?] for the creditor <p>Partial security possible.</p> | <p>No special conditions</p> <p>Prospect of appeal irrelevant</p> | <p>All provisional measures that are available under Belgian law (saisie mobilière conservatoire, saisie immobilière conservatoire, saisie-arrêt conservatoire), see art. 1445 C Jud.</p> | <p>Without prior exequatur, the proceedings are faster but no less expensive.</p> | <p>All provisional measures that are available under Belgian law (saisie mobilière conservatoire, saisie immobilière conservatoire, saisie-arrêt conservatoire)</p> |

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| Denmark | <p>Judgments, orders for payment.</p> <p>P.E. includes decision on costs</p> <p>Provisional measures are immediately enforceable</p> | <p>P.E. operating by law:</p> <p>judgments are P.E. after time limits for compliance expire, (normally 14 days), unless the judgment is appealed</p> <p>Additionally (regarding the first 14 days and case of appeal), P.E. of jdgm's can be ordered by the trial court (1st instance) ex officio or the enf. court on application by a party.</p> <p>On application of creditor the enf. court may order P.E. for orders for payment</p> | <p>P.E. operating by law:</p> <p>judgment does not have to mention that it is provisionally enforceable.</p> <p>no further conditions.</p> <p>P.E. ordered by court:</p> <p>Trial court has discretion (balance of interests of parties)</p> <p>The enf. court may only order P.E. if debtor agrees to it or if there is a danger of frustration</p> | <p>PE allows for the seizure and realisation of the debtor's assets.</p> <p>The enf. court may stay realisation if the title is appealed or in other special cases.</p> <p>P.E. is not limited to certain parts of the debtor's assets.</p> <p>Strict liability of the creditor if judgment is modified on appeal (505 Rpl)</p> | <p>In the cases of P.E. ordered by court, P.E. can be made subject to posting of security by creditor</p> <p>Discretion of court</p> | <p>Enforcement can be stayed by enf. court; enf court can order posting of security by debtor as condition for stay (discretion)</p> | <p>Parties must be heard</p> <p>CA can suspend P.E. during an appeal, normally based on prospects of appeal</p> | <p>Reg 44/01/ EG is not applicable</p> | <p>If Art 47 I Reg 44/01/EG was applicable, there would not be any important changes.</p> | <p>Reg 44/ 01 is not applicable, Art. 39 Brussels Regulation is still in force.</p> |

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| Finland | Judgments (including decisions on costs) that are not directly legally binding. Includes eg. default judgments, settlements confirmed by court, money payment decisions of an administrative organ. | Always by law | No special conditions P.E. is not limited to certain parts of the debtor`s assets In case of obligations to perform / abstain, P.E. may not prejudice the appeal | seizure is allowed, but not realisation (except if object is quickly deteriorating or losing value) Strict liability of the creditor if judgment is modified on appeal | Security of creditor only exists in case of non- monetary claims In such cases, security is compulsory | In case of monetary claims, P.E. may (only) be rescinded if debtor poses a security | Monetary claim, security | Provisional attachment of property and special protective measures | No improve- ments | Provisional attachment of property and special protective measures |

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| France | <p>Judgments of 1st instance; Default judgments of Ct of A; most provisional measures, e.g. Ordonnance de référé</p> <p>Decisions on costs included in part</p> <p>Fully enforceable due to lack of suspensive effect of remedy:</p> <ul style="list-style-type: none"> - other jgms of Ct of Appeals - ordonnance sur requête - decisions of enforcement courts <p>Orders for payment become fully enforceable when period for opposition has expired</p> | <p>Both forms exist. P.E. operating by law : must be expressly ordered by statute; e.g. <i>Ordonnance de référé</i> (provisional measure), sec. 514 II NCPC</p> <p>General rule: judge (1st instance or president / reporter of CA) can order P.E., sec. 515 I NCPC</p> | <p>By law : expressly ordered by statute</p> <p>Ordered by court:</p> <ul style="list-style-type: none"> -Application only necessary if P.E. shall be ordered by CA - Discretion of court; reasons do not need to be given; P.E. must not be incompatible with the nature of the lawsuit (e.g. status of a person, important prejudice for the debtor); partial P.E. possible <p>P.E. can be made subject to posting of security</p> <p>P.E. is not limited to specific kinds of claims (e.g. monetary claims)</p> <p>However, condemnation must establish specific amount to be paid / act to be performed</p> | <p>P.E. allows for seizure and realisation of debtor's assets</p> <p>Exception: in case of immovable property, only seizure is allowed</p> <p>Strict liability of the creditor if judgment is modified on appeal having suspensive effect;</p> <p>Else liability for damages only in case of fault of creditor</p> <p>No such liability if no execution takes place but debtor pays following the 1st instance ruling</p> | <p>P.E. ordered by court as well as P.E. operating by law can be made subject to posting of security by ct of 1st or 2nd instance</p> <p>Discretion of court</p> | <p>P.E. ordered by court:</p> <p>P.E. can be avoided by posting of security, sec. 521 NCPC, if authorized by court</p> <p>P.E. operating by law:</p> <p>CA can allow money to be paid to sequester</p> | <p>Authorisation to post security is subject to court's discretion</p> <p>While ordinary stay of P.E. demands that debtor show that enforcement would create results that are manifestly excessive, this requirement does not apply in case of posting of a debtor security</p> | <p>All provisional measures that are available under sec 67 et seq. Loi 9 July 1991 (saisie conservatoire, suretes judiciaires conservatoires)</p> | <p>Without prior exequatur, the proceedings are faster</p> | <p>?</p> |

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| Germany | <p>All judgments of 1st and 2nd instance, sec. 707 et seq. ZPO; decisions on costs are included</p> <p>By definition P.E. applies only to judgments; other titles are immediately enforceable (i.e. judicial settlements, notarial acts, orders for payment (sec. 794, 796 ZPO) provisional measures (Arrest, sec. 916, 929 et seq.))</p> <p>No P.E. in matrimonial and family matters, sec 704 II ZPO</p> | <p>P.E. must be expressly ordered by the court in the operative part of the judgment (sec. 704 ZPO);</p> <p>Exceptions: (operating by law)</p> <p>-labour disputes (sec 62 I, 64 VII ArbGG)</p> <p>-order of execution (Vollstreckungsbescheid), sec. 700 ZPO)</p> <p>[- provisional measures made in the form of a judgment, sec. 922,936 ZPO]</p> | <p>No specific conditions</p> <p>No application of the claimant necessary</p> <p>No judicial discretion</p> <p>P.E. enforceability is always ordered</p> | <p>P.E. allows for seizure and realization of debtor's assets (possible exception to realization: danger of irreparable damage to the debtor)</p> <p>Strict liability of the creditor if judgment is modified on appeal (sec. 717 (2) ZPO); the claim is normally guaranteed by security of the creditor</p> | <p>Creditor must normally post a security, sec. 709 ZPO;</p> <p>Exceptions (sec. 708):</p> <p>inter alia:</p> <p>-default judgments;</p> <p>-amount of judgment < 1250 EUR</p> <p>-judgments on rent matters [<i>Mietsachen</i>]</p> <p>-judgments of 2nd instance</p> <p>If the creditor is unable to provide a security, only seizure (not realization) is allowed, sec. 720a ZPO</p> | <p>Normally, the debtor can post a security in order to hinder provisional enforcement (sec. 707), even if creditor is ready to post security</p> <p>If the debtor is unable to provide the security, the Court may still stay P.E. or restrict P.E. to mere seizure; the interests of creditor and debtor must be balanced (sec. 712 ZPO).</p> | <p>Some judgments, notably default jgms, jgms of appellate courts and jgms up to an amount of 1200 €, are provisionally enforceable without security of creditor, sec. 708 ZPO. The debtor may stop P.E. by voluntarily posting security (sec. 711 ZPO).</p> <p>Court of Appeal may stay P.E. when there are high prospects of success, sec. 707, 719 ZPO</p> | <p>Announcement of garnishment by the creditor, sec. 845 ZPO (effect: attachment of the claim)</p> <p>Provisional Measures (sec. 916 et seq. ZPO)</p> <p>Provisional enforceability (sec. 720a ZPO)</p> | <p>Announcement of garnishment operates extremely quickly, is cheap and requires minimal preconditions (e.g. no translation of title)</p> <p>Problems:</p> <p>-application of Art. 47 § 1 Reg. 44/01 in practice is too complicated for enforcement organs</p> <p>- Elaboration of a claim form seems to be necessary</p> | <p>Announcement of garnishment by the creditor, sec. 845 ZPO</p> <p>Provisional Measures (sec. 916 et seq. ZPO)</p> <p>Provisional Enforceability (sec. 928, 930 ZPO by analogy)</p> <p>No improvements, but the case law of the E.C.J. (119/84) Cappelloni requiring prior service should be abandoned</p> |

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| Greece | <p>Judgments of first instance (904, 907 CCP)</p> <p>P.E. does not include decisions on costs (909 CCP)</p> <p>No P.E. in most non-monetary family matters</p> <p>No P.E. if debtor is state or regional authority (town), at least in case of non-monetary claim</p> <p>No P.E. concerning legal declarations</p> <p>Provisional measures and orders for payment are directly enforceable by law</p> | <p>P.E. can be ordered by court of 1st instance in its judgment or by CA after appeal has been lodged</p> <p>Compulsory P.E. (910 CCP): jgm ordering - return of leased object or payment of rent, - payment of maintenance or salary - jgm based on bills of exchange, cheques etc</p> <p>Optional P.E. in cases listed in 908 CCP</p> | <p>Written request of a party before final hearing of ct of 1st instance or in appeal</p> <p>In cases of optional P.E., discretion of court based on interests of parties</p> <p>[General requirements for execution of judgments]</p> | <p>P.E. allows for seizure and realization of debtor's assets</p> <p>Creditors liability for damages is subject to gross negligence of creditor concerning lack of claim to enforce</p> | <p>In case of optional P.E., court may order posting of (partial or full) security by creditor, depending on financial status / trustworthiness of creditor</p> <p>Discretion of court</p> | <p>In case of appeal, court of 1st instance and CA can stay execution with or without the ordering of the posting of security by debtor</p> | <p>The court may stay P.E. without posting of security by the debtor if it is convinced that appeal will be successful</p> | <p>All provisional (including protective) measures that are available under Greek law, art. 682 et. Seq. CCP.</p> | <p>Great deal of speed and costs</p> | <p>All provisional and protective measures</p> |

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| Ireland | <p>In principle, judgments, decrees, orders, orders for payment, decisions, writs of execution, determinations of costs or expenses in judgments are <i>eo ipso</i> enforceable; appeal does not have any suspensive effect, P.E. as such does not exist</p> <p>Exception: practice akin to P.E., if a party is granted leave to apply to set aside a default judgment or to appeal where the time permitted for appeal has expired, on terms fixed by the court (security).</p> <p>No enforceable instruments</p> <p>Protective measures partly replace P.E.</p> | <p><i>Enforceability operates by law</i></p> <p><i>Appellate court can grant a temporary stay of execution (?)</i></p> <p>[Protective measures (e.g. Mareva injunction) are ordered by court.]</p> | <p><i>Application of debtor</i></p> <p><i>Temporary stay is normally subject to posting of security by debtor</i></p> | <p>Judgments etc are fully enforceable from the moment they are rendered</p> <p>If judgment is modified on appeal, liability of the creditor</p> <p>[Mareva injunction normally only extends to assets specified in the court order. Prohibits certain acts of debtor but does not allow for seizure or realisation]</p> | No security is required. | Temporary stay of enforcement by appellate court is normally subject to posting of security by debtor | Unfettered discretion of Court; normally “special circumstances” required | A Mareva injunction can be sought under Article 31 of Regulation 44 or its equivalent. Then the High Court will require all normal proofs other than that the applicant has a substantive cause of action justiciable in Ireland | - | - |

[A decision to grant or to refuse an interim or an interlocutory injunction can be appealed]

[Mareva injunction: sufficient undertaking of debtor (often affidavit)]

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| Italy | <p>Judgments of first instance (282 CPC), orders for payment of undisputed sums, decisions on costs included</p> <p>Debated whether P.E. applies to judgments on status and declaratory jgm's</p> <p>Appeal for cassation against judgment of CA does not have suspensive effect (373 CPC)</p> <p>Some provisional measures (e.g. décret d' injonction, based on notarized documents, bills of exchange and cheques) can / must be declared P.E.</p> | <p>In general: operation by law: judgments of 1st instance and of the appellate courts, orders for payment of undisputed sums (282 CPC)</p> <p>Ordered by court: "Décret d' injonction" can be declared P.E. by the judge who has made the decision</p> | <p>Claim must be certain, due and liquid</p> <p>Ordered by court: special conditions for particular measures,</p> <p>Décret d' injonction: -Court must order P.E. if decret is based on documents [Urkundenprozess]</p> <p>-Court can order P.E. in case of danger of frustration of final enforcement, normally subject to posting of security by creditor</p> <p>(limited discretion , must balance interests in the concrete circumstances)</p> | <p>In principle, seizure and realisation possible.</p> <p>Liability of the creditor if judgment is modified on appeal (96 II CPC).</p> <p>Liability is based on fault of the creditor (96 I CPC).</p> | <p>Normal appeal is not subject to security.</p> <p>On second appeal of debtor, ct of 2nd instance can either stay P.E. or order creditor to post security</p> <p>Other exceptions: Décret d' injonction; third party opposition</p> <p>If debtor does not contest a debt as such but claims a set off, the court can first decide on the uncontested claim, declaring P.E. subject to posting of security by creditor</p> | Does not exist | <p>danger of significant damage in case of enforcement AND some prospect of success on appeal (283 CPC);</p> <p>in case of final appeal against judgment of CA: danger of irreparable damage in case of enforcement (373 CPC)</p> | <p>all protective and provisional measures normally available</p> | <p>Provisional measures provided by national law available (sequestration, deposit of disputed object with court); no restriction to protective measures.</p> <p>Improvement in speed</p> <p>No improvement in costs</p> | Probably only protective measures |

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| Luxembourg | <p>Judgments of courts of first instance, decisions on costs not included (246 NCPC)</p> <p>provisional measures (ordonnances de référé);</p> <p>Final appeal (pourvoi en cassation) against decisions of the CA does not have suspensive effect ; CA ruling is therefore automatically enforceable</p> <p>No P.E. of judgments on status in family law matters; pourvoi en cassation has suspensive effect in such matters</p> | <p>1) by law:</p> <p>Judgments -according due salaries, - spouse may recover part of partners income from employer, -in bankruptcy matters</p> <p>Ordonnance de référé rendered after contradictory proceeding</p> <p>2) In some cases, P.E. operates by law but court has to check whether conditions are fulfilled and this must be stated in the judgment</p> <p>3) ordered by court:</p> <p>Most judgments Ordonnance de référé of county courts rendered ex parte.</p> | <p>1) see supra</p> <p>2) Judgment must be based on notarized document, acknowledge - ment of contractual obligation (? Promesse reconue) or an existing final judgment having legal effect between the parties</p> <p>3) Application of party; Commercial matters: subject to posting of security by creditor (567 NCPC) or proof of sufficient financial means</p> <p>P.E. for part of judgment is possible</p> | <p>P.E. allows for seizure and realization of debtor's assets</p> <p>(Disputed whether ordonnance de référé allows for saisie arrêt)</p> <p>Mere seizure can normally be effected without posting of security</p> <p>Strict liability of the creditor if judgment is modified on appeal</p> | <p>1) n.a.</p> <p>2) No security required (244 NCPC)</p> <p>3) Court can order creditor to post security; discretion of court (244, 115 NCPC etc), balancing of interests; in case of maintenance claims normally no security is demanded</p> | <p>posting of a security by debtor is not a condition for stay of P.E.</p> | <p>On request, CA can decide on stay of execution:</p> <p>CA only has to check whether decision of court of 1st instance was legally correct; CA must respect discretionary powers of ct of 1st instance;</p> <p>Prospects of appeal are irrelevant;</p> | <p>All protective measures that are available under Luxembourg law</p> <p>(<i>saisie-arrêt, saisie-arrêt sur rémunérations périodiques, saisie conservatoire</i>)</p> | <p>no improvements required</p> | <p>All protective measures that are available under Luxembourg law</p> <p>(<i>saisie-arrêt, saisie-arrêt sur rémunérations périodiques, saisie conservatoire</i>)</p> |

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| Netherlands | <p>Court decisions where an ordinary remedy available (having suspensive effect): Contradictory and default judgments (decision on costs included); preliminary judgments determination of prepayment of the costs of expert witnesses;</p> <p>No P.E.: -monetary claims < 1750 EUR) -In most family law matters - seizure (interim measure) as no appeal possible; however P.E. (+) concerning decision on abrogation of seizure</p> | <p>Operating by law: judgment declaring insolvency.</p> <p>General rule: P.E. can be ordered by court: of 1st instance or by appeal court (default judgments: court that delivered default judgment),</p> | <p>Application in statement of claim or appeal (ex officio in rare cases, e.g. determination of a prepayment of the costs of expert witnesses)</p> <p>Court may (discretion) declare judgment P.E., if not expressly prohibited by law or incompatible with nature of case, balancing of interests; chances of appeal</p> <p>P.E. can be made subject to posting of security</p> <p>P.E. can be restricted to part of the claim</p> | <p>P.E. allows for seizure and realization of debtor's assets</p> <p>Strict liability of the creditor if judgment is modified on appeal</p> | <p>On application of the debtor, P.E. of judgments on monetary claims (or claims convertible into money) can be made subject to posting of security;</p> <p>discretion of court (1st and 2nd instance)</p> <p>In general, courts are reluctant to require security;</p> <p>exception: In cases of Kort Geding, security is almost always required, due to summary character of proceedings</p> | <p>Posting of security by debtor is not a condition for stay of p.e.</p> <p>Exception: decision on abrogation of seizure: abrogation can be ordered if debtor posts security</p> | <p>Appeal court may at the debtor's request rescind the provisional execution (351 CCP)</p> <p>Discretion of court; Likelihood of success of appeal is no condition for rescinding the provisional execution</p> | <p>Protective measures are provisional seizures</p> | <p>The situation under Art. 47 § 1 remains the same. No difference in speed and costs.</p> | <p>In the Dutch context Art 47 II Brussels Reg. section II of Art 47 has no direct meaning. The declaration of enforceability includes that the P.M.s already taken are transformed <i>ex lege</i> into execution measures.</p> |

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| Portugal | <p>Title where appeal has no suspensive effect:</p> <ul style="list-style-type: none"> -Judgments of 1st instance (692, 47 CPC) -Orders for payment <p>No enforceable decision on costs as American rule applies (reform project under way)</p> <p>Provisional measures are directly enforceable (no P.E.)</p> <p>No P.E. in status [employment?] and rent matters</p> | <p>Always operates by law.</p> <p>The appeal against the decision of the court of first instance has only a de-voing effect. From this follows automatically the possibility of P.E. P.E. is excluded if an appeal has a suspensive effect.</p> | <p>Appeal without any suspensive effect</p> <p>General conditions of execution (due and liquid claim)</p> <p>No further conditions</p> | <p>P.E. allows for seizure and realization of debtor's assets</p> <p>P.E. is not limited to certain parts of the debtor's assets.</p> <p>Strict liability of the creditor if judgment is modified on appeal</p> | <p>Creditor has to provide security in order to receive money originating from the attached (and sold) object (47 n°3 CPC)</p> | <p>Debtor can stay enforcement by posting security (47 n°4 CPC)</p> <p>Creditor who does not want to make use of P.E. may require debtor to post security (unless already secured by judicial mortgage, 693 n°2 CPC)</p> | <p>No other conditions</p> | <p>Either attachment or interim injunction (ordonnance de référé)</p> | <p>Art 47 § 1 Ref. 44/01 gives foreign creditors the option between immediately obtaining a provisional measure or execution of the foreign decision after obtaining ex-equatur.</p> <p>Seizure is faster but no improvement concerning costs.</p> | <p>In most cases: seizure of the debtors goods</p> |

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| Spain | <p>Judgments of 1st and 2nd instance; decisions on costs included</p> <p>Court order ("auto") based on transaction or acknowledgement of a debt</p> <p>Orders for payment become fully executable when delay for opposition has expired</p> <p>[provisional measures and P.E. are mutually exclusive; as soon as judgment can be provisionally enforced, prior P.M.s lose effect (?)]</p> | P.E. ordered by court of 1st instance | <p>In general, P.E. must be accorded by the judge on written application of the creditor</p> <p>No additional conditions, no delays.</p> <p>Exceptions:</p> <p>Danger of irreparable damage to the debtor</p> <p>No P.E. of non-monetary claims in matrimonial and family matters</p> <p>No P.E. of foreign titles that are not provisionally enforceable in their country of origin</p> | <p>P.E. allows for seizure and realization of debtor's assets</p> <p>Strict liability of the creditor if judgment is reversed on appeal</p> | <p>After 2000reform, P.E. is in principle no longer subject to posting of security;</p> <p>Exceptionally, concerning non-monetary claims, court can order posting of security by creditor on demand of debtor if important prejudice to debtor is feared</p> | <p>In case of monetary claims, debtor can oppose specific means of enforcement proposed by creditor by showing less onerous way of enforcement. Debtor then has to post security for potential damages caused to creditor by the delay</p> | <p>Replacement of method of enforcement requires debtor to show that proposed method would cause damage that is (virtually) impossible to repair.</p> | <p>If foreign decision has effect of res judicata: same measures as for all Spanish judgments</p> <p>Else: All provisional measures that are available under Spanish law</p> | None | Same as Art 47 §1st |

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| Sweden | <p>-Judgments (including decisions on costs) that are not directly legally binding</p> <p>- Orders for payment (summary proceedings before the Enforcement Authority) unless court decides otherwise on opposition / appeal</p> | <p>Operating by law:</p> <p>Judgments concerning monetary claims (including default judgments) judgments in bills of exchange or cheque cases;</p> <p>judgment on release of personal property if security is posted (3:8 CPC)</p> <p>Ordered by court:</p> <p>17:14 CPC provides for option for courts of all instances to allow P.E. on application of a party; in practice this is very rarely used.</p> | <p>Must be expressly ordered by law (3:4 CPC);</p> <p>No special conditions.</p> <p>Discretion ("if there is a reason for doing so"); balancing of interests, prospects of appeal</p> | <p>Enforcement Authority (EA) can only attach and secure the debtors assets, but is not allowed to sell the property before title is legally binding. Exceptions: debtor agrees to it, value of property is rapidly falling, costs for keeping property in custody are too high.</p> <p>P.E. is not limited to certain parts of debtors assets</p> | <p>Monetary judgment: No P.E. of judgment on release of personal property requires posting of security (3:8 CPC)</p> <p>[In case of enforcement of provisional measures, creditor normally has to post security (15:6CPC)]</p> | <p>In case of (non-default) monetary judgment:</p> <p>EA stops provisional enforcement if debtor deposits the sum with the EA (3:6 CPC)</p> | <p>Stay of execution by Court of Appeal possible</p> <p>- in most cases where P.E. operates by law, except case of (non-default) judgments concerning monetary claims</p> <p>- if P.E. was ordered by court</p> <p>Notably the prospects of the appeal and possible damage caused by execution are taken into account</p> | <p>Provisional protective / security measures.</p> | <p>Art 47 §1 causes only a marginal improvement in speed, because decision of provisional protective / security measures is an automatic consequence of a declaration of enforceability.</p> <p>There is no improvement in costs. In general, the applicant must deposit a security at the court for the loss that the opposing party may suffer.</p> | <p>Provisional security or protective measures</p> <p>No improvements</p> |

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| United Kingdom England/ Wales | In principle, judgments, decrees, orders, orders for payment, decisions, writs of execution, determinations of costs or expenses in judgments are eo ipso enforceable; appeal does not have any suspensive effect No enforceable instruments Protective measures partly replace P.E. | (Final) Enforceability operates by law Appellate court can grant a temporary stay of execution | Application of debtor Temporary stay is normally subject to posting of security by debtor | Judgments etc are fully enforceable from the moment when they are made If judgment is modified on appeal, strict (?) liability of the creditor | not applicable | Temporary stay is normally subject to posting of security by debtor | Unfettered discretion of Court; normally "special circumstances" required, e.g. risk of insolvability of creditor | Freezing order | No | Freezing order |

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| United Kingdom Scotland | Judgements (decisions on costs not included), Orders (not if of only procedural nature), Arrestment only possible if there are conclusions for the payment of money other than costs | Enforceability is ordered by court on application of claimant; (application makes part of relevant forms for the starting of normal court action) Until 2003, order was made by the court clerk. In sheriff courts, p.e. is still ordered by the sheriff's clerk | Court does not have discretion Future debts require special circumstances (defendant has to be either <i>vergens ad inopiam</i> or <i>in mediatione fugae</i>). In case of "heritable property": seizure must be proportionate with the claim | Only seizure possible Subjects attachable by arrestment is "an obligation to account", including debts and corporal movable property. Separate rules for "heritable property" (e.g. seizure not possible in case of future contingent debts) | No. No general right for compensation for use of seizure that turns out to be ill-founded | Debtor can provide security (guaranty by bank or building society) to avoid arrestment; Discretion of court regarding sufficiency of security (factual test); security must also cover collateral claims | Defendant has to show that claimant has "no colourable case" (?) | Arrestment (movables) and inhibition on dependance ("heritable property") Not available before delay of Art 47 § 3 has expired !?! | No | Arrestment (movables) and inhibition on dependance ("heritable property") No change (?) |