



Reports of Cases

Case C-511/14

Pebros Servizi Srl

v

Aston Martin Lagonda Ltd

(Request for a preliminary ruling
from the Tribunale di Bologna)

(Reference for a preliminary ruling — Area of freedom, security and justice — Judicial cooperation in civil matters — Regulation (EC) No 805/2004 — European Enforcement Order for uncontested claims — Article 3(1)(b) — Conditions for certification — Judgment in default — Concept of ‘uncontested claim’ — Procedural conduct of a party capable of constituting an ‘absence of contestation of the claim’)

Summary — Judgment of the Court (Third Chamber), 16 June 2016

1. *Questions referred for a preliminary ruling — Reference to the Court — Requirement that there be a case pending before the referring court called upon to give judgment in proceedings intended to lead to a decision of a judicial nature — Concept — Procedure for certifying a judgment as a European Enforcement Order — Included*

(Art. 267, second para., TFEU; European Parliament and Council Regulation No 805/2004)

2. *Questions referred for a preliminary ruling — Jurisdiction of the Court — Limits — Clearly irrelevant questions and hypothetical questions put in a context not permitting a useful answer — Questions bearing no relation to the subject matter of the case in the main proceedings — Absence — Admissibility*

(Art. 267 TFEU)

3. *EU law — Interpretation — Provision not containing any express reference to the law of the Member States for the purpose of determining its meaning and scope — Independent and uniform interpretation*

4. *Judicial cooperation in civil matters — Creation of a European enforcement order for uncontested claims — Regulation No 805/2004 — Uncontested claim — Independent concept*

(European Parliament and Council Regulation No 805/2004, Recitals 5 and 6, Art. 3(1) second para., (b))

1. A national court may refer a question to the Court only if there is a case pending before it and if it is called upon to give judgment in proceedings intended to lead to a decision of a judicial nature. Such is the case for a procedure leading to the certification of a court decision as a European Enforcement Order. In that regard, that procedure requires a judicial examination of the conditions laid down by

Regulation No 805/2004 creating a European Enforcement Order for uncontested claims in order to assess whether the minimum standards intended to safeguard the debtor's rights of defence have been respected. Therefore, that regulation requires the body making the certification as a European Enforcement Order to carry out a series of checks with respect to the elements listed in the form set out in Annex I to that regulation. As regards the review of the lawfulness of the judicial procedure which led to the adoption of a decision covered by certification, which that court carries out at the stage of that certification, that review is not different in nature from judicial reviews it is required to carry out before making court decisions in other proceedings. Moreover, Article 6 of that regulation requires that court, in addition to reviewing the lawfulness of that earlier judicial procedure and compliance with the rules on jurisdiction, in particular to ensure the enforceability of the decision taken and to assess the nature of the claim.

Moreover, the procedure for the certification of a court decision as a European Enforcement Order appears, functionally, not as a procedure which is distinct from the earlier judicial procedure, but as the final phase of that procedure, necessary in order to ensure that it is fully effective, by allowing the creditor to proceed with the recovery of his debt. Consequently, the certification of a court decision as a European Enforcement Order is a judicial act during the adoption of which the national court is entitled to refer questions to the Court for a preliminary ruling.

(see paras 24-26, 29, 30)

2. See the text of the decision.

(see para. 32)

3. See the text of the decision.

(see para. 36)

4. The conditions according to which, in the case of a judgment by default, a claim is to be regarded as 'uncontested', within the meaning of the second subparagraph of Article 3(1)(b) of Regulation No 805/2004 creating a European Enforcement Order for uncontested claims, must be assessed autonomously, solely in accordance with that regulation.

Regulation No 805/2004 does not define the concept of 'uncontested claim' by means of a reference to the laws of the Member States. On the contrary, it is apparent from a reading of Article 3 of that regulation in the light of recital 5 of the latter, that that concept is an autonomous concept of EU law. The reference to the laws of the Member States in Article 3(1)(b) and (c) of that regulation does not relate to the constituent elements of that concept, but concerns the specific elements of its application.

Moreover, according to recital 6 of that regulation, the absence of objections from the debtor, as stipulated in Article 3(1)(b) of that regulation, can take the form of default of appearance at a court hearing or of failure to comply with an invitation by the court to give written notice of an intention to defend the case. Consequently, a claim may be regarded as 'uncontested', within the meaning of the second subparagraph of Article 3(1)(b) of Regulation No 805/2004, if the debtor does nothing to object to it by failing to comply with an invitation by the court to give written notice of an intention to defend the case or by failing to appear at the hearing. Therefore, the fact that, under the law of a Member State, a judgment in default does not amount to an uncontested claim is irrelevant for the purposes of the answer to be given to the question referred by the referring court. The express reference to the procedural rules of the Member State in that regulation does not relate to the legal

consequences of a failure by the debtor to attend the proceedings, those consequences being the subject of an autonomous classification under that regulation, but concerns exclusively the detailed procedural rules in accordance with which the debtor may effectively contest the claim.

(see paras 37, 40-42, 45, operative part)