

Law for Business: International Trade

Statute of limitations on international sale of goods

Companies often enter disputes involving international sales contracts without a clear grasp on the applicable statute of limitations. Whether or not the parties made their own choice of applicable law (see the Spring 2009 issue of the Bulletin), in some instances the UN Convention on the Limitation Period in the International Sale of Goods will be applied. The Convention provides for a 4-year limitation period.



The Convention applies in two instances:

(I) when at the time of conclusion of a contract for the international sale of goods, the parties have their places of business in two states that are parties to the Convention;

Only 34 countries are parties to the Convention (or parts of it). The only EU or EEA members who **are** parties to the Convention are Belgium, the Czech Republic, Hungary, Norway, **Poland**, Romania, Slovakia and Slovenia. **None** of the other Western European countries—including the Netherlands—is a party to the Convention.

(II) when the rules of private international law make the law of a contracting state applicable to the contract of sale.

Thus if a company from Poland (a party to the Convention) enters into a sale contract with a company from the Netherlands (not a party to the Convention), and the contract is governed by Polish law, then the 4-year limitations period provided in the Convention will apply. But if the contract is governed by Dutch law, then the limitations period under Dutch law will apply instead.

The parties to a contract may always exclude application of the Convention. This is an issue to consider before signing.

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European Payment Order: A Quick and Effective Debt Collection Tool

A natural consequence of the common market within the European Union and the free flow of goods is the growing number of contracts between businesses based in different member states. Differences in national legal systems may prove troublesome when it comes to collecting debts under cross-border contracts, however. The European payment order (EPO) is a new judicial procedure designed to eliminate these difficulties.

The goal of the EPO procedure is to streamline judicial proceedings in cross-border cases and enable free circulation of EPOs as such, reducing the hassle and cost associated with long-distance litigation.

The EPO procedure is available in a proceeding where at least one of the parties resides in a member state other than the one where the court is located, involving an undisputed, liquidated monetary claim, in any amount, which is due and payable upon filing of the motion for issuance of the EPO.

The court issuing an EPO is required to confirm its enforceability, which then opens the way for enforcement in another member state.

In Poland, when an EPO has been issued in another member state and the enforceability of the EPO has been confirmed there, the EPO is enforced under the same conditions as an enforceable judgment of a Polish court—that is, after issuance of an enforcement clause.

The EPO should prove to be a quick and effective tool for cross-border debt collection across the EU.

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