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Abstract:

This article is devoted to the institution of enforcement refusal of the European order for payment pursuant to Article 22 Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure. This question has not been developed in Polish literature yet. In Polish law an application for enforcement refusal of the European order for payment is called a legal action for refusal of enforcement order under the enforcement clause of the European order for payment. This article has been written with a view to analyzing Union and national regulation pertaining to enforcement refusal of the European order for payment. This article consists of a comparative legal analysis of the following tasks: legal basis to apply for enforcement refusal, entity authorized to the application, national judicature of a competent court to consider the application and proceedings in which a defendant shall be entitled to enforcement refusal of the European order for payment. What is more, a legal character of this remedy of defense of the rights of a debtor and his attitude towards other legal remedies of defense of a debtor under the Civil Procedure Code have been taken into consideration in this article.

The final chapter concludes detailed analysis of the thesis. It has been concluded that an introduction of a legal action for enforcement refusal to the Civil Procedure Code has not deprived a debtor of his right to other legal measures defined in the Code. This legal action is meant to eliminate so called “titles collision” which could not be prevented earlier by a debtor.