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Европейска заповед за забор на банкови сметки

European Account Preservation Order

Article 50(1)(a) – Courts competent to issue the European Account Preservation Order

Helsinki District Court

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Article 50(1)(b) – Authority designated as competent to obtain account information

The competent authority to obtain account information is the bailiff. The request to obtain account information may be sent either directly to the bailiff or to the National Administrative Office for Enforcement (*Valtakunnanvoudinvirasto*), which will forward it to the bailiff.

Contact details of the National Administrative Office for Enforcement:

National Administrative Office for Enforcement

European account preservation

Box 330

FI-20101 Turku

Finland

Tel.: +358 29 2956 65150

Fax: +358 29 2956 65159

Email: vvv@oikeus.fi

Contact details of bailiffs

Bailiffs work in enforcement offices. The names and contact details of these offices are available, in Finnish, Swedish and in some cases English, online at a website maintained by the Ministry of Justice <https://oikeus.fi/fi/>.

Article 50(1)(c) – Methods of obtaining account information

The method of obtaining account information available under Finnish law is the one set out in Article 14(5)(a) of the Regulation (all banks in Finnish territory are under an obligation to disclose, upon request by the information authority (i.e. the bailiff), whether the debtor holds an account with them).

Article 50(1)(d) – Courts with which an appeal against refusal to issue the European Account Preservation Order may be lodged

An appeal against a decision by the Helsinki District Court may be lodged with the Helsinki Court of Appeal. The notice of appeal must be addressed to the Helsinki Court of Appeal and must be sent to the registry of the district court that issued the decision, i.e. the Helsinki District Court. For the contact details of the Helsinki District Court see Article 50(1)(a).

Article 50(1)(e) – Authorities designated as competent to receive, transmit and serve the European Account Preservation Order and other documents

Article 10(2): The authority competent to revoke or terminate the Preservation Order is the bailiff. The revocation form may be sent either directly to the bailiff or to the National Administrative Office for Enforcement (*Valtakunnanvoudinvirasto*), which will forward it to the bailiff (see Article 50(1)(b)).

Article 23(3): If the Preservation Order was issued in Finland (Finland is the state of origin), the issuing court (i.e. Helsinki District Court) is responsible for transmitting the documents referred to in Article 23(3) of the Regulation (see Article 50(1)(a)).

If the Preservation Order is to be enforced in Finland (Finland is the state of enforcement), the bailiff is the competent authority of the state of enforcement.

The documents required for enforcement may be sent either directly to the bailiff or to the National Administrative Office for Enforcement (*Valtakunnanvoudinvirasto*), which will forward the documents to the bailiff (see Article 50(1)(f)).

Article 23(5): See the reply to Article 50(1)(f).

Article 23(6): See the reply to Article 50(1)(f).

Article 23(3): The bailiff responsible for enforcing the Preservation Order will issue the declaration concerning the preservation of funds, referred to in Article 25, and transmit it to the court that issued the Preservation Order and to the creditor.

Article 27(2): The competent authority for the release of over-preserved amounts is the bailiff responsible for enforcing the Preservation Order. The request to release over-preserved amounts may be sent directly to the bailiff who issued the declaration referred to in Article 25, or to the National Administrative Office for Enforcement (*Valtakunnanvoudinvirasto*), which will forward it to the bailiff (see Article 50(1)(b)).

Article 28(3): If Finland is the state of origin, responsibility for initiating service and for transmitting the documents referred to in Article 28(1) to the competent authority in the Member State in which the debtor is domiciled rests with the court that issued the Preservation Order, i.e. Helsinki District Court.

If the debtor is domiciled in Finland, the competent authority for service will depend on whether any bank accounts that are to be preserved are located in Finland. If any bank accounts that are to be preserved are located in Finland, the competent authority for service is the bailiff. In that case, the documents to be served may be sent either directly to the bailiff, or to the National Administrative Office for Enforcement (*Valtakunnanvoudinvirasto*), which will forward them to the bailiff. If any of the accounts that are to be preserved are not located in Finland, the competent authority for service is the Helsinki District Court.

Article 36(5), second subparagraph: The competent authority for enforcing a decision on a remedy is the bailiff. The decision on a remedy may be sent either directly to the bailiff or to the National Administrative Office for Enforcement (*Valtakunnanvoudinvirasto*), which will forward it to the bailiff.

Article 50(1)(f) – Authority competent to enforce the European Account Preservation Order

The authority competent to enforce precautionary measures in Finland is the bailiff. If Finland is the state of enforcement, the documents required for enforcement, referred to in Article 23(3) of the Regulation, may be sent either directly to the bailiff or to the National Administrative Office for Enforcement (*Valtakunnanvoudinvirasto*), which will forward them to the bailiff. (see Article 50(1)(b))

Article 50(1)(g) – Extent to which joint and nominee accounts can be preserved

The seizure of movable property, such as money held in bank accounts, is carried out under Chapter 8, Section 7 of the Enforcement Code (705/2007), taking into account, where applicable, the provisions of Chapter 4 on attachment.

According to Chapter 4, Section 11 of the Enforcement Code, movable property held jointly by the debtor and a third party is deemed to belong to them in equal parts, unless the third party demonstrates, or it is otherwise apparent, that it is the sole owner of the property or owns the larger share of the property. On the basis of this assumption regarding the right of ownership, half of the funds in an account held jointly by a debtor and a third party will be regarded as belonging to the debtor, meaning that this half can be subject to a preservation measure (minus amounts exempt from preservation under Article 31). The assumption of joint ownership will cease to apply, however, if it transpires that the assets are in fact entirely owned by the debtor or the third party, or that they do not own equal shares. Third parties who claim that they are the sole owners or own more than half of the assets will have to substantiate their claim.

Enforcement Code: <http://www.finlex.fi/fi/laki/ajantasa/2007/20070705>

Article 50(1)(h) – Rules applicable to amounts exempt from seizure

Under Chapter 4, Section 21(1) point 6 of the Enforcement Code, in the case of a debtor who is a natural person, an amount will be separated from the attachment equivalent to one and a half times the protected portion of the debtor's cash assets or other property referred to in Section 48, for a period of one month, unless the debtor has other, corresponding income.

In accordance with Chapter 4, Section 48(3), the amount of the protected portion is reviewed annually by Decree of the Ministry of Justice, as provided for in the National Pensions Index Act (456/2001). Under Section 1 of Decree 1123/2019 of the Ministry of Justice determining the protected portion in the garnishment of periodically paid wages or salary, the debtor's protected portion in 2020 is EUR 22.63 for the debtor himself/herself per day and EUR 8.12 per day for a dependent spouse, child or spouse's child until the date of payment of the next wages or salary. For the purpose of calculating the protected portion, a month corresponds to 30 days.

A spouse means a married partner or an unmarried partner living in a relationship equivalent to marriage. Those regarded as dependent on the debtor for maintenance will be a person whose income is less than the protected portion calculated for the debtor himself/herself and a child in a similar position, regardless of whether the other partner shares in the child's maintenance. Maintenance paid by the debtor may be taken into account as provided for in Chapter 4, Sections 51-53 of the Enforcement Code.

The above amount will be exempted from seizure without any request from the debtor; the bailiff responsible for the Preservation Order and for exempting such amounts is therefore required under Article 31(2) of the Regulation to exempt the relevant amount from preservation on his/her own initiative.

Article 50(1)(i) – Fees, if charged by the banks, for the implementation of equivalent national orders or for providing account information, and information on the party liable to pay those fees

Banks are not entitled under Finnish law to charge fees for implementing equivalent national orders or for providing account information.

Article 50(1)(j) – The scale of fees or other set of rules setting out the applicable fees charged by any authority or other body involved in the processing or enforcement of the Preservation Order

Bailiffs charge a fee of EUR 225 for enforcing a Preservation Order. The fee is regulated by Section 2(5) the Enforcement Fees Act (34/1995) and Section 5 (1) point 3 of the Enforcement Fees Decree (35/1995). In accordance with Section 4(3) of the Enforcement Fees Act, the fee may be charged only to the applicant, not the debtor.

No fee is charged for measures taken by the bailiff during the procedure for obtaining account information under Article 14 of the Regulation.

Article 50(1)(k) – Ranking, if any, of equivalent national orders

Precautionary measures under Finnish law do not provide any ranking for attachment. The legal basis is Chapter 4, Section 43 of the Enforcement Code which states that a seizure or other precautionary measure does not prevent attachment.

Article 50(1)(l) – Courts or enforcement authority competent to grant a remedy

Article 33(1): Helsinki District Court. For contact details see Article 50(1)(a).

Article 34(1): The bailiff. The application for a remedy may be sent either directly to the bailiff or to the National Administrative Office for Enforcement (*Valtakunnantoukavirasto*), which will forward it to the bailiff. For contact details see Article 50(1)(b).

Article 34(2): Helsinki District Court. For contact details see Article 50(1)(a).

Article 50(1)(m) – Courts with which an appeal is to be lodged and the time-limit, if any, for lodging the appeal

An appeal against a decision on a remedy, taken by the Helsinki District Court, may be lodged with the Helsinki Court of Appeal. The notice of appeal addressed to the Helsinki Court of Appeal must be sent to the registry of the district court that issued the decision, i.e. the Helsinki District Court.

The deadline for lodging an appeal is 30 days from the day on which the decision of the district court was handed down or made available to the parties. The notice of appeal must be sent to the registry of the district court by close of business on the day the deadline expires. Close of business is 16.15.

An appeal against a decision taken by a bailiff on a remedy may be lodged with the district court that handles enforcement appeals under Chapter 11, Section 2 of the Enforcement Code. The notice of appeal addressed to the district court must be sent to the office of the bailiff that took the decision. For contact details of the bailiff see Article 50(1)(b).

Enforcement appeals are heard in the district courts of the Åland Islands, Helsinki, Länsi-Uusimaa, Oulu, Pirkanmaa, Pohjanmaa, Pohjois-Savo, Päijät-Häme and Varsinais-Suomi. The appeal is heard by the district court in whose jurisdiction the enforcement measure was carried out. Contact details can be found on the website <https://oikeus.fi/fi/>.

There is a three-week time limit for lodging appeals. This three-week period is calculated from the day on which the decision was taken, if the person concerned was notified in advance or was present when it was handed down. Otherwise, the period for lodging an appeal is calculated from the date on which the person concerned was informed of the decision. Chapter 3, Section 39(2) of the Enforcement Code sets out when the recipient is deemed to have been informed of a decision sent by post or e-mail. Unless proven otherwise, service is deemed to have been effected three days after an electronic message was sent or seven days after the document was posted or deposited at a place reserved for postal consignments. The date of posting or deposit must be shown on the document.

The notice of appeal must be sent to the office of the bailiff that took the decision by close of business on the day the deadline expires. Close of business is 16.15.

Article 50(1)(n) – Court fees

Court fees and fees for appeals are regulated by the Act on Court Fees (1455/2015). The fee for applying to a court for a Preservation Order is the same as for the processing of precautionary measures under national law. The fees charged for processing such precautionary measures under the Act on Court Fees are currently based on the fee for hearing the main proceedings relating to the applicant's application or entitlement.

The size of the fee therefore depends on the main proceedings at the origin of the Preservation Order case. If the main proceedings involved a dispute, the fee for proceedings in the district court for the application for a Preservation Order will be a maximum of EUR 500, in accordance with Section 2 of the Act on

Court Fees. The court fees may be lower if, for example, the main proceedings involve a summary dispute, as referred to in Chapter 5, Section 3 of the Code of Judicial Procedure: the court fee may be EUR 65.86 or 250, depending on how the main proceedings were decided and whether the respondent contested the case.

The court fees for the court of appeal are a maximum of EUR 500.

The court fee is collected on completion of the procedure, i.e. when the case has been concluded in the court.

No court fee is charged for invoking a remedy against a Preservation Order.

Act on Court Fees: <http://www.finlex.fi/fi/laki/ajantasa/2015/20151455>

Article 50(1)(o) – Languages accepted for translations of the documents

Finnish, Swedish and English.

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