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Italian

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## European Account Preservation Order

Italy

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

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The court of the district in which the authentic act was drawn up, presided over by a single judge.

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

The president of the court of the district in which the domicile or place of abode of the debtor is located, or the registered office of the debtor in the case of a legal person. If the debtor has no residence, domicile or place of abode in Italy or, if a legal person, is not established in Italy, the competent authority is the president of the court of Rome.

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

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Italian law provides that the information authority may have access to information held in public archives in order to obtain information on bank accounts.

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

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The court, sitting as a bench, where the judge who issued the preservation order presides.

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

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The receipt, transmission and notification or serving of documents is the responsibility of:

- (a) the officer of the court in the circumstances described in Article 23(5) of the Regulation;
- (b) the registry of the court that issued the preservation order in the circumstances covered by Articles 10(2), 23(3) and (6), 25(3) and 36(5) of the Regulation;
- (c) the registry of the court responsible for enforcement in the case provided for in Article 27(2) of the Regulation;
- (d) the registry of the court of the place where the debtor is domiciled in the circumstances provided for in Article 28(3) of the Regulation.

If the preservation order was issued in another Member State in the circumstances referred to in Articles 10(2), 23(3), 23(6) or 25(3), the competent court is the ordinary court responsible for enforcing the preservation order (see Article 50(f)).

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

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The ordinary court of the third party's place of residence (Article 678 of the Code of Civil Procedure) which acts in accordance with the rules on expropriation from third parties.

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

Joint accounts and nominee accounts with more than one account-holder may be subject to a preservation order only in proportion to the share of the debtor. The shares of the account-holders are presumed to be equal, unless there is proof to the contrary.

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

Exempt from seizure, pursuant to the combined provisions of Articles 545 and 671 of the Code of Civil Procedure, are:

- (a) maintenance payments, unless for purposes of maintenance, but only with the authorisation of the president of the court or a judge delegated by them and only for a share to be determined by court order;
- (b) charitable or subsistence allowances to persons classed as poor and payments for maternity, sickness or funeral costs owed by insurance funds, social security bodies and charitable institutions;
- (c) the sums owed by private persons by way of wages, salaries or other payments related to the employment relationship, including those owed for redundancy, may be attached for maintenance payments to the extent authorised by the president of the court or by a judge delegated by them; up to a fifth of these sums may be attached; simultaneous seizures resulting from a combination of the grounds cited previously may not account for more than half of these sums;

- (d) an annuity, if constituted free of charge, where there is provision that it should not be subject to attachment or seizure beyond the limit of the essential needs of the creditor;
- (e) the sums payable by an insurer to the policyholder or beneficiary of an insurance, subject, with respect to the premiums paid, to the provisions on the revision of acts detrimental to creditors and to the collation, charging and reduction of gifts;
- (f) sums owed for pensions, allowances that serve as pensions or other retirement benefits, with the stipulation that of these sums no more than an amount corresponding to the maximum amount of the monthly social allowance, plus one half, may be attached and that the share in excess of that amount may be attached within the limits laid down in points (c) and (d);
- (g) special funds for welfare and assistance set up by the entrepreneur, including without employee contributions, where these concern payments made by the entrepreneur's creditors or workers.

There is also provision that sums due by way of wages, salaries and other payments related to employment or work, including those for redundancy and for pensions, and allowances that serve as pensions or other retirement benefits, may, when credited to a bank or post office account in the name of the debtor, be subject to attachment for an amount in excess of three times the social allowance, where the crediting of the account takes place before the attachment; where the crediting takes place on or after the date of attachment, these sums may be subject to attachment within the limits laid down in paragraphs (3), (4), (5) and (7) and in the special provisions of the Law.

It is up to the debtor to show that the claim is exempt from preservation.

#### **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**

As a general rule, the custodian of assets subject to a preservation order, i.e. a bank in the case of a bank account, is authorised to ask for compensation for safekeeping and conserving the assets; the compensation is established according to the rates in force or those usually applied, together with reimbursement of documented costs essential to the conservation of the assets. These costs include the costs incurred in notifying the declaration referred to in Article 25 of the Regulation.

The party responsible for payment (provisionally) is the applicant. It is for the court to identify the party ultimately responsible for payment.

The provision of information on accounts pursuant to Article 14 does not justify the charging of fees by banks. Banks are required by law to update the archives which, in Italy, are consulted to obtain information on bank accounts pursuant to Article 14 of the Regulation.

#### **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**

Without prejudice to the court fees due pursuant to Article 42 of Regulation (EU) No 655/2014, the processing and enforcement of a preservation order applied for in Italy entails the payment of charges for the extraction of copies of judicial proceedings and of fees payable to officers of the court for the serving of documents.

The charges for copies are established on the basis of the table in Annex 7 to Presidential Decree No 115 of 30 May 2012 – ‘Consolidated legal provisions and regulations on legal costs’.

With regard to fees payable for the serving of documents, a distinction should be drawn according to whether the documents are served by the officer of the court directly to the recipient or whether they are served by post. In the first case, a travel allowance must be paid to the officer of the court pursuant to Article 27 of the abovementioned consolidated provisions, calculated in accordance with Article 35 thereof and taking into account the benchmarks updated annually by decree of the Ministry of Justice. In the second case, instead of an allowance, delivery costs must be reimbursed. In both cases — i.e. personal notification of the recipient and postal notification — a fee provided for in Article 27 of the consolidated provisions, and calculated on the basis of Article 34, is also due. Where the notification is urgent, both the fee and the allowance are increased in accordance with Article 36 of the consolidated provisions.

See Articles mentioned above and Annex 7 to Presidential Decree No 115/2014 under the following [link](#)

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

There is no ranking of national orders.

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

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The court presided over by a single judge.

#### **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 to the ordinary court, sitting as a bench, is authorised against a judgment under Articles 33, 34 and 35 of the Regulation. The time limit for appeal is fifteen days and starts with the court's issuing of the order, or the communication or serving thereof, if earlier.

#### **Article 50(1)(n) – Court fees**

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(A) The court fees for obtaining a preservation order vary depending on the value of the claim and the instance of the court proceedings according to when the preservation order was requested:

- (a) for claims up to EUR 1 100 the costs are as follows: EUR 21.50 if the court proceedings are at first instance; EUR 32.25 if the court proceedings go to appeal; EUR 43 in the case of appeal in cassation;
- (b) for claims between EUR 1 100 and EUR 5 200 the costs are as follows: EUR 49 if the court proceedings are at first instance; EUR 73.50 if the court proceedings go to appeal; EUR 98 in the case of appeal in cassation;
- (c) for claims between EUR 5 200 and EUR 26 000 the costs are as follows: EUR 118.50 if the court proceedings are at first instance; EUR 177.75 if the court proceedings go to appeal; EUR 237 in the case of appeal in cassation;
- (d) for claims between EUR 26 000 and EUR 52 000 the costs are as follows: EUR 259 if the court proceedings are at first instance; EUR 388.50 if the court proceedings go to appeal; EUR 518 in the case of appeal in cassation;
- (e) for claims between EUR 52 000 and EUR 260 000 the costs are as follows: EUR 379.50 if the court proceedings are at first instance; EUR 569.25 if the court proceedings go to appeal; EUR 759 in the case of appeal in cassation;
- (f) for claims between EUR 260 000 and EUR 520 000 the costs are as follows: EUR 607 if the court proceedings are at first instance; EUR 910.50 if the court proceedings go to appeal; EUR 1 214 in the case of appeal in cassation;

(g) for claims over EUR 520 000 the costs are as follows: EUR 843 if the court proceedings are at first instance; EUR 1 264.50 if the court proceedings go to appeal; EUR 1 686 in the case of appeal in cassation.

(h) for claims of undetermined value the costs are as follows: EUR 259 if the court proceedings are at first instance; EUR 388.50 if the court proceedings go to appeal; EUR 518 in the case of appeal in cassation; However, for cases within the exclusive jurisdiction of the justice of the peace under Article 7 of the Code of Civil Procedure the costs shall be: EUR 118.50 if the court proceedings are at first instance; EUR 177.75 if the court proceedings go to appeal; EUR 237 in the case of appeal in cassation.

In addition to the costs referred to above, if the order is requested before the start of court proceedings on the merits of the case, a flat-rate advance of EURO 27 for the costs of notification is payable for each procedure.

(B) The court fees for an appeal against a preservation order are EUR 147 in all cases.

In addition to these costs, if the order is requested before the start of the main court proceedings, a flat-rate advance of EURO 27 for the costs of notification is payable for each procedure.

The costs are to be paid at the start of proceedings, when the appeal is lodged.

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

Only translations into Italian will be accepted.

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