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European Account Preservation Order

Slovenia

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

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The courts designated as competent to issue a Preservation Order where a creditor has obtained an authentic instrument (Article 6(4)) are the local courts (*okrajna sodišča*).

A list of the local courts can be found [here](#).

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

The authority competent to obtain account information (Article 14) is the **district court** (*okrožno sodišče*), which implements international legal assistance and has electronic access to the register of transaction accounts (Article 101 of the Courts Act (*Zakon o sodiščih*; ZS), *Uradni List RS* (UL RS; Official Gazette of the Republic of Slovenia) Nos 94/07 – official consolidated text, 45/08, 96/09, 86/10 – Public Real Estate Fund of the Republic of Slovenia Act (*Zakon o javnem nepremičninskem skladu Republike Slovenije*; ZJNepS), 33/11, 75/12 – Physical Assets of the State and Local Government Act (*Zakon o stvarnem premoženju države in samoupravnih lokalnih skupnosti*; ZSPDLS-A), 63/13 and 17/15, in conjunction with Article 4 of the Enforcement and Securing of Civil Claims Act (*Zakon o izvršbi in zavarovanju*; ZIZ)).

A list of all the district courts can be found [here](#).

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

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Methods of obtaining account information (Article 14(5)):

- all payment transaction organisations are required to disclose whether the debtor holds an account with them (Article 4 ZIZ); under Article 16(10) ZIZ the term 'payment transaction organisation' denotes banks, saving banks, the Public Payments Administration of the Republic of Slovenia and other payment service providers authorised by law to manage transaction accounts or sub-accounts and to provide deposit-taking services;
- access for the information authority to the relevant information where that information is held by public authorities or administrations in registers or otherwise (electronic consultation by the court of the register of transaction accounts of natural persons - RTR or the register of the Agency (AJ PES), the eRTR web application on the accounts of business entities).

Although it is possible under Slovenian law to obtain information on a debtor's account in the manner set out in Article 14(5)(c) (cf. Article 31 ZIZ), courts hardly ever use that option, as they can obtain information on the debtor's bank account by electronically consulting the register of transaction accounts of legal and natural persons (Article 4 ZIZ).

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

Appeals are lodged (Article 21) with:

- the court that rejected the creditor's application for a Preservation Order (**local or district court**).

[List of local courts](#), [list of district courts](#).

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 authority designated as competent to receive, transmit and serve the Preservation Order and other documents (Article 4(14)) is:

- under Articles 10(2), 23(3), (5) and (6), 25(3), 27(2) and the second subparagraph of Article 36(5) of Regulation (EU) No 655/2014, **the local court** in the area in which the debtor's domicile, registered office or bank account is located (Article 5 in conjunction with Article 100 ZIZ), and
- under Article 28(3) of Regulation (EU) No 655/2014, the **district court** which implements international legal assistance in the area in which the debtor has his permanent residence.

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

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The authority competent for enforcing the Preservation Order (Chapter 3) is:

- the local court in the area in which the enforcement procedure is to be or was carried out (Article 5 read together with Article 257 ZIZ).

The court with territorial competence is the one which would be competent for ruling on the application for enforcement (first paragraph of Article 266 ZIZ).

The territorially competent court in the area in which the debtor has permanent residence (in the case of natural persons) or its headquarters (in the case of legal persons) is competent to rule on an application for securing a claim by means of cash funds (Article 100 in conjunction with Article 239 ZIZ). If the debtor is not permanently resident in the Republic of Slovenia, the court in the area in which that person is temporarily resident is competent. If the debtor has neither permanent nor temporary residence or its headquarters in the Republic of Slovenia, the court in the area in which the debtor's debtor is permanently resident is territorially competent. This means that, in extreme cases, the territorial competence for issuing a preservation decision is determined on the basis of the headquarters of the payment transaction organisation at which the debtor has funds.

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

The extent to which joint and nominee accounts can be preserved (Article 30) is as follows:

A joint payment account is a payment account opened by a payment service provider on behalf of two or more natural persons or two or more legal persons (Article 14(1) of the Payment Services and Systems Act (*Zakon o plačilnih storitvah in sistemih*; ZPlaSS).

Each individual holder of a joint payment account may dispose of all the cash funds in that account, unless the agreement on management of the joint payment account lays down other authorisations for disposing of the cash funds in that account (Article 14(2) ZPlaSS).

The total cash funds in a joint payment account may be used to repay the liabilities of an individual account holder vis-à-vis third parties. An agreement between the holders of a joint payment account on the amount of the shares of individual holders and on the liability of individual holders does not restrict the rights of third parties to have their claims in an enforcement or bankruptcy procedure against an individual holder repaid from the total cash funds in the joint payment account (Article 14(3) ZPlaSS). The cash funds in a joint payment account may therefore be used to repay the liabilities of an individual account holder vis-à-vis third parties.

If enforcement is restricted to specified assets of the debtor under a specific act, those restrictions are considered with regard to each individual holder of the joint payment account in the enforcement procedure against an individual holder of a joint payment account (Article 14(4) ZPlaSS).

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

Amounts exempt from seizure and amounts for which enforcement is limited are governed by the following rules (Article 31):

Income is exempt from enforcement where its common characteristic is to constitute not basic income, such as wages, but, as a rule, lower, supplementary income which in most cases has the function of a social corrective (Article 101 of the [Enforcement and Securing of Civil Claims Act \(ZIZ\)](#)).

Under Article 102 ZIZ, enforcement is limited in respect of income, which generally takes the form of basic income, such as wages, i.e. income regarded as stemming from an employment relationship. It is generally permitted to take up to two thirds of such income, but the debtor must be left with an amount equal to 76 % of the minimum wage. Each debtor must be left with the same residual amount. In the case of certain privileged claims, the amount that must be left to the debtor is lower – 50 % of the minimum wage. In both cases the amount that must be left to the debtor is higher if the debtor is responsible for maintaining family members.

The exemptions from and limitations on enforcement must be taken into account by those responsible for executing enforcement decisions (the bank) without an application from the debtor, unless there is an entitlement to a higher limit for reasons of maintenance. The debtor must demonstrate such entitlement to the executor by producing an authentic instrument (Article 102(5) ZIZ).

The exact list of exemptions from seizure or limitations on amounts is laid down in Articles 101, 102 and 103 ZIZ.

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

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Charging of fees (Article 43): banks may, in accordance with their commercial policy and the respective rates of remuneration for services, charge a fee for carrying out activities on the basis of equivalent national orders (receiving the order and transferring funds) (Article 142 ZPlaSS). Account information is provided by the Agency of the Republic of Slovenia for Public Legal Records and Related Services (*Agencija Republike Slovenije za javnopravne evidence in storitve*; 'the Agency'). The information in the register of transaction accounts of legal entities and natural persons engaged in business is publicly available free of charge on the Agency's website (Article 146 ZPlaSS). However, the Agency charges the requester for information from the register concerning the account of a natural person, according to tariffs set in agreement with the Minister responsible for finance (Article 147 ZPlaSS). The rate of compensation for the costs of supplying information about the transaction accounts of natural persons from the register of transaction accounts (UL RS No 49/10) is published on the Agency's website. In accordance with that rate, the amount of compensation for costs depends on how the request for account information is submitted (the rate is lower for the electronic transfer of data than for data transmission based on a request in writing) and on the number of units of data transmitted.

The fees that banks charge for carrying out activities based on an enforcement decision in respect of the debtor's cash assets must be reasonable and commensurate with the actual costs incurred by the bank for the enforcement of equivalent national orders (Article 142 ZPlaSS). Banks must at all times publish the rate of remuneration for services (both online and at their business units). Banks must also comply with Article 102a ZIZ, which states that if the executor of an enforcement decision charges the debtor a special fee for carrying out activities based on the enforcement decision or securing order, that fee may not be settled from income that is exempt from enforcement under Article 101 ZIZ; where enforcement is carried out on income for which enforcement is limited under Article 102 ZIZ, the fee may not be settled from an amount that is 76 % of the minimum wage or less; if the debtor maintains a family member or another person whom he is required to maintain by law, it may not be settled from the amount of income specified for the person maintained by the debtor, according to the criteria for the allocation of cash social benefits laid down by the law governing social security income.

The fee for implementing equivalent national orders is paid by the debtor, while the fee for providing account information is paid by the person who made the enquiry (generally the creditor).

The court accesses information on accounts free of charge by consulting the register kept by the Agency or asks the payment transaction organisation (bank) to disclose whether the debtor has opened an account with it (see method a) in the information provided under Article 50(1)(c) (first paragraph of Article 4 ZIZ).

The Agency provides the court, the tax authority and other authorities responsible for enforcement with direct electronic access to information in the register of transaction accounts.

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

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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 (Article 44) or in providing account information in accordance with Article 14:

- if Slovenia is the country of origin, the authority involved in the processing or enforcement of the Preservation Order is the district or local court which has issued the Preservation Order. It is necessary to pay a court fee of EUR 30 (tariff No 4012 ZST-1) for an application for a Preservation Order, or EUR 24 (tariff Nos 4041 and 4012 ZST-1) if the application is submitted in electronic form;

- if Slovenia is the country of enforcement, the authority involved in the processing or enforcement of the Preservation Order is the local court which, on the basis of the Preservation Order, issues a decision ordering the bank to preserve the debtor's cash funds in the account. It is necessary to pay the local court a court fee of EUR 30 (tariff No 4012 ZST-1) for an application for a decision, or EUR 24 (tariff Nos 4041 and 4012 ZST-1) if the application is submitted in electronic form.

The authority or other body in Slovenia involved in providing account information in accordance with Article 14 is the district court which provides international legal assistance. In such a case, no court fee needs to be paid for the provision of account information.

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

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Ranking of equivalent national orders under national law (Article 32):

Where a number of creditors assert monetary claims against the same debtor and concerning the same subject of enforcement, the claims are to be repaid in the order in which the creditors obtained the right to repayment in respect of that subject, save where the law provides otherwise (Article 12 ZIZ).

Where a European Preservation Order was issued on the basis of a **judgment** by which a court of another Member State ruled (definitively or otherwise) on the merits of the case, the Slovenian court responsible for enforcement (i.e. the **local court**) issues a preliminary injunction in response to the creditor's application, ordering the seizure of the cash amount in the debtor's account at the payment transaction organisation (point 4 of the first paragraph of Article 260 ZIZ). Seizure grants the creditor a lien over the debtor's cash assets in bank accounts (third paragraph of Article 107 in conjunction with the fifth paragraph of Article 138 and Article 239 ZIZ).

Where a European Preservation Order **was not issued on the basis of a judgment** on the merits of the case, **a court settlement or an authentic instrument**, the Slovenian court responsible for enforcement (i.e. the **local court**) **issues a temporary injunction** in response to the creditor's application. By the decision on a temporary injunction, the court orders the payment transaction organisation to refuse to pay the debtor, or anyone acting at the debtor's behest, the amount of cash from the debtor's account for which it has issued a temporary injunction (point 4 of the first paragraph of Article 271 ZIZ). Such temporary injunctions issued by a Slovenian court on the basis of a European Preservation Order of another Member State do not grant a lien over the security (second paragraph of Article 271 ZIZ). They are issued by the court if it has not yet issued a judgment on the merits of the case.

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

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The courts or, where applicable, the enforcement authority competent to grant a remedy (Article 33(1), Article 34(1) or (2)):

- a remedy (objection) under Article 33(1) is lodged with the court that issued the Preservation Order. That court is a local court or a district court. It rules on the remedy (Article 54 in conjunction with Article 239 ZIZ);

- a remedy under Article 34(1) is lodged with the local court which issued the securing order (by means of a preliminary or temporary injunction) on the basis of a Preservation Order of another Member State and served it on the payment transaction organisation. It rules on the remedy (Article 54 in conjunction with Article 239 ZIZ);

- a remedy under Article 34(2) of the Regulation (public policy exception) is lodged with a local court in accordance with Article 108(5) of the Private International Law and Procedure Act (*Zakon o mednarodnem zasebnem pravu in postopku*; ZMZPP) (UL RS Nos 56/99 and 45/08 — Arbitration Act (*Zakon o arbitraži*; ZArbit)), which states that the local court with territorial competence for implementing a foreign judgment is the court of the area in which enforcement is to be carried out. It rules on the remedy (Article 54 in conjunction with Article 239 ZIZ).

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

The courts with which an appeal is to be lodged, the period of time within which such an appeal must be lodged under national law and the event marking the start of that period (Article 37):

An appeal may be lodged against the decision on the objection (first paragraph of Article 9 in conjunction with Article 239 ZIZ). The appeal is lodged at the court that issued the Preservation Order (local or district court) or at the local court responsible for enforcement of the Preservation Order under Article 23 of the Regulation.

The appeal must be lodged **within eight days** of the decision handed down by the court of first instance on the objection (third paragraph of Article 9 ZIZ).

A higher court rules on the appeal.

Contact details of the higher courts:

1. Celje Higher Court

Prešernova ulica 22
3102 Celje - p.p. 1034

tel.: (03) 427 51 00

fax.: (03) 427 52 70

e-mail: urad.visce@sodisce.si

2. Koper Higher Court

Ferrarska 9
6000 Koper

tel.: (05) 668 30 00

fax.: (05) 639 52 45

e-mail: urad.viskp@sodisce.si

3. Ljubljana Higher Court

Tavčarjeva 9
1000 Ljubljana

tel.: (01) 366 44 44

fax.: (01) 366 40 70

e-mail: urad.vislj@sodisce.si

4. Maribor Higher Court

Sodna ulica 14
2000 Maribor

tel.: (02) 234 71 00

fax.: (02) 234 73 18

e-mail: urad.vismb@sodisce.si

Article 50(1)(n) – Court fees

Indication of court fees (Article 42):

The court fees in proceedings to obtain a Preservation Order or a remedy against such an Order are the same as those for obtaining an equivalent national order or a remedy against such a national order.

The payment of court fees is governed by Article 29b ZIZ. The court fees must be paid on submission of the application for enforcement, the objection or the appeal or at the latest within eight days of service of the order for payment of the court fees.

If the court fees can be calculated automatically, a payment order is issued when the application is submitted electronically, instructing the applicant to pay the fees by transfer to a given account and to quote the reference number indicated in the order for payment. The order for payment of the court fees is deemed to have been served when the applicant himself or his representative submits the application electronically.

If the court fees are not paid in time, the application is deemed to have been withdrawn.

In the payment order, the court must warn the party concerned of the consequences of non-payment of the court fees.

The amount of court fees is laid down by the Court Fees Act (*Zakon o sodnih taksah*; ZST-1) (UL RS Nos 37/08, 97/10, 63/13, 58/14 – Constitutional Court decision, 19/15 – Constitutional Court decision and 30/16). The court fees charged are the same as in procedures relating to the equivalent national order, which is the securing order.

The following fixed amounts are charged for these fees:

	If an application is submitted on paper	If an application is submitted in electronic form
Procedure concerning an application for a Preservation Order	EUR 30 (tariff No 4012 ZST-1)	EUR 24 (tariff Nos 4041 and 4012 ZST-1)
Procedure concerning an objection	EUR 30 (tariff No 4022 ZST-1)	EUR 24 (tariff Nos 4041 and 4022 ZST-1)
Procedure concerning an appeal	EUR 33 (tariff No 4033 ZST-1)	EUR 26.4 (tariff Nos 4041 and 4033 ZST-1)

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

Languages accepted for translations of the documents (Article 49(2)):

The official languages are Slovenian plus the two national minority languages, which are in official use at the courts in the areas where these national minorities live (Articles 6 and 104 ZPP). The national minority languages are Italian and Hungarian. Piran Local Court, Koper Local Court and Koper District Court operate in Italian, whereas Lendava Local Court operates in Hungarian.

Mixed-nationality municipalities are covered by the Establishment of Municipalities and Municipal Boundaries Act (UL RS No 108/06 - official consolidated text and 9/11; hereinafter ZUODNO). Under Article 5 ZUODNO: 'Mixed-nationality municipalities shall, in accordance with this Act, be those identified as such by the current statutes of Lendava, Hodoš - Šalovci, Moravske Toplice, Koper, Izola and Piran municipalities.'

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