European Account Preservation Order

Szlovénia

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

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*) (first paragraph of Article 279b of the Enforcement and Securing of Civil Claims Act (*Zakon o izvršbi in zavarovanju*); *Uradni list RS* (UL RS; Official Gazette of the Republic of Slovenia) Nos 3/07 – official consolidated text, 93/07, 37/08 – ZST-1, 45/08 – ZArbit, 28/09, 51/10, 26/11, 17/13 – Constitutional Court Decision, 45/14 – Const. Court Decision, 53/14, 58/14 – Const. Court Decision, 54/15, 76/15 – Const. Court Decision, and 11/18; hereinafter 'ZIZ').

A list of the local courts can be found here.

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

The authority designated as competent to obtain account information (Article 14) is the Agency of the Republic of Slovenia for Public Legal Records and Related Services (*Agencija Republike Slovenije za javnopravne evidence in storitve* – AJPES) (Article 279c ZIZ).

Contact details: Tržaška cesta 16, 1000 Ljubljana

gp@ajpes.si - main office

info@ajpes.si - information for users

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

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

a) AJPES, which has been designated as the information authority, keeps the Register of Transaction Accounts, which is a single database on the transaction accounts of natural and legal persons (Article 191 ff. of the Payment Services, Services for Issuing Electronic Money and Payment Systems Act (*Zakon o plačilnih storitvah, storitvah izdajanja elektronskega denarja in plačilnih sistemih*); UL RS Nos 7/18 and 9/18 – corr.; hereinafter 'ZPlaSSIED'). This makes the process of obtaining information very effective, as there is no need for the information authority to ask the bank whether the debtor holds an account with it (Article 14(5)(a)).

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 (Article 4 ZIZ; Article 13 of the Courts Act (*Zakon o sodiščih)*; UL RS Nos 94/07 – official consolidated text, 45/08, 96/09, 86/10 – ZJNepS, 33/11, 75/12 – ZSPDSLS-A, 63/13, 17/15 and 23/17 – ZSSve; hereinafter 'ZS').

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 court or district court (*okrožno sodišče*)**).

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

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), 28(3) and the second subparagraph of Article 36(5) of Regulation (EU) No 655/2014, the Local Court in Maribor.

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

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

the Local Court in Maribor, which has the territorial competence for enforcing a Preservation Order issued by a court of another Member State of the European Union (Article 279d ZIZ).

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

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 taking action on the basis of equivalent national orders (receiving the order and transferring funds).
Providers of payment services must publish on their websites full and accurate information on the charges that they levy for taking action based on an enforcement decision or securing order (Article 190 ZPlaSSIED).
Account information is provided by AJPES. The information in the register of transaction accounts of legal persons and natural persons engaged in business is publicly available free of charge on AJPES's website (Article 194 ZPlaSSIED). For the supply of information from the register of transaction accounts concerning the account of a natural person, AJPES charges the requester a fee according to a rate set in agreement with the Minister responsible for finance (Article 195 ZPlaSSIED). 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 AJPES'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 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 AJPES or asks the payment transaction organisation (bank) to disclose whether the debtor has opened an account with it (first paragraph of Article 4 ZIZ, Article 13 ZS).
AJPES provides the courts, 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

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):
A court fee must be paid upon submission of an application for securing a claim through a Preservation Order (Article 29b in conjunction with Articles 239 and 279a ZIZ). An application for a Preservation Order incurs a court fee of EUR 30 (tariff No 4012 of the Court Fees Act (*Zakon o sodnih taksah* – ZST-1; UL RS Nos 37/08, 97/10, 63/13, 58/14 – Const. Court Decision, 19/15 – Const. Court Decision, 30/16, 10/17 – ZPP-E and 11/18 – ZIZ-L; hereinafter ZST-1), or EUR 24 (tariff Nos 4041 and 4012 ZST-1) if the application is submitted in electronic form;
When the Preservation Order has been issued by a Slovenian court, the bank is in Slovenia and the court has also issued a decision ordering the bank to take the action set out in point 4 of the first paragraph of Article 260 or point 4 of the first paragraph of Article 271 ZIZ (first paragraph of Article 279e), the court fee also covers the issuing of that decision, as it is actually issued by the court in the procedure for issuing a Preservation Order (i.e. the procedure for deciding on an application for securing a claim).
When the Preservation Order has been issued by a foreign court and a Slovenian court receives it for enforcement because the bank is in Slovenia, the decision by which the court orders the bank to take the action set out in point 4 of the first paragraph of Article 260 or point 4 of the first paragraph of Article 271 ZIZ (first paragraph of Article 279e) is issued in the procedure launched on the basis of the reception of the Preservation Order. On the basis of Article 24 of the Regulation, the court fee is not paid in this case, as the decision cannot be considered to be a decision on an interim measure or a preliminary measure, and the procedure in which that decision is issued cannot be considered to be the procedure for securing a claim; rather, it generates the decision by which the court gives the bank instructions on how to enforce a Preservation Order issued abroad.

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

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).
The way in which a preservation order issued by a court of another Member State of the European Union is enforced is for a court to issue a decision ordering the action referred to in point 4 of the first paragraph of Article 271 ZIZ to be taken, in other words by issuing an interim measure (third paragraph of Article 279e ZIZ). Courts issue a decision on an interim measure, ordering 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 an interim measure (point 4 of the first paragraph of Article 271 ZIZ). Such interim measures 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. If the creditor encloses an existing judgment, court settlement or authentic instrument with the application for a preservation order, the enforcement measure set out in point 4 of the first paragraph of Article 260 ZIZ is ordered, i.e. a decision is issued on a preliminary measure ordering the seizure of the cash amount in the debtor's account at the payment transaction organisation (third paragraph of Article 279e and 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).

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

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 in Maribor, which issued the securing order (by means of a preliminary measure or interim measure) 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 279f ZIZ);
- a remedy under Article 34(2) of the Regulation (public policy exception) is lodged with the Local Court in Maribor.

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 nonpayment of the court fees.
The amount of court fees is laid down by the Court Fees Act (ZST-1) (UL RS Nos 37/08, 97/10, 63/13, 58/14 – Const. Court decision, 19/15 – Const. 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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