European Account Preservation Order

Spanje

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

The Courts of First Instance (*Juzgados de Primera Instancia*).

The court with jurisdiction in the given territory is determined by the criteria set out in Article 545(3) of the Law on Civil Procedure (*Ley de Enjuiciamiento Civil*) relating to enforcement based on non-judicial instruments.

This means that as a rule the competent court will be the Court of First Instance in the place determined in accordance with Articles 50 and 51 of the Law on Civil Procedure. Enforcement may also be applied for by the party seeking enforcement before the Court of First Instance in the place of performance of the obligation, as specified in the order, or in any place where there are attachable assets of the party against whom enforcement is sought. The rules on express or tacit submission to jurisdiction are never applicable here. If there are several parties against whom enforcement is sought, the competent court is the court with jurisdiction for any one of those parties, at the choice of the party seeking enforcement.

If the enforcement order concerns assets specifically mortgaged or pledged, the competent court is determined in accordance with Article 684 of the Law on Civil Procedure.

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

Subdirectorate General for International Judicial Cooperation (*Subdirección General de Cooperación Jurídica Internacional*). Ministry of Justice.

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

Access for the information authority to the relevant information where that information is held by public authorities or administrations in registers or otherwise.

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

An appeal must be **lodged** with the court that rejected the application for the order. If the decision was handed down by a Court of First Instance or a Commercial Court (*Juzgado de lo Mercantil*), the appeal will be **heard** by the Provincial Court (*Audiencia Provincial*). If the decision was handed down by a second instance court, the same court will hear the appeal.

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

The court that is competent to enforce the order under Article 50(f).

For the purposes of Article 28(3), the competent court is the Court of First Instance of the debtor's domicile.

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

The Court of First Instance in the place where the bank account is held and, if accounts are held in several locations, the Court of First Instance with jurisdiction in any one of those places.

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

A preservation order may be issued against joint accounts of which the debtor is a co-holder and accounts for which the debtor is a nominee on behalf of a third party. However, a preservation order may not be issued against accounts that are held by a third-party nominee on the debtor's behalf.

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

The rules regarding salaries and pensions are set out in Article 607 of the Law on Civil Procedure.

https://www.boe.es/buscar/act.php?id=BOE-A-2000-323&tn=1&p=20151028&vd=#a607

If public authorities are involved in civil or commercial proceedings for reasons unrelated to the exercise of their authority, funds deposited in bank accounts by them are exempt from seizure when these funds have actually been allocated to a public service or purpose.

Such amounts are exempt from seizure without any need for an application to that effect.

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

There is no provision for fees to be charged for these purposes.

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

No fees are charged.

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

Orders are ranked chronologically, from the time when the bank receives the order.

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

The court that issued or enforced the order.

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

The appeal is **lodged** with the court that issued the decision.

If the decision was handed down by a Court of First Instance or a Commercial Court, the **time limit** for lodging an appeal is 20 days and the appeal will be heard by the Provincial Court. If the decision was handed down by another court, the appeal must be lodged within five days and will be heard by the same court.

The **time limit** for lodging an appeal **begins** when the decision is notified.

Article 50(1)(n) – Court fees

There are no court fees, except at the time of lodging an appeal where a deposit is required in the cases and in the manner provided for in Additional Provision 15 of the Organic Law on the Judiciary (*Ley Orgánica del Poder Judicial*, 'LOPJ').

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

Not applicable.

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