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Europejski nakaz zabezpieczenia na rachunku bankowym

European Account Preservation Order

Rumunia

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

Under Article 1 of Article I<sup>8</sup> of Government Emergency Order No 119/2006 on certain measures necessary to implement certain Community Regulations from the date of Romania's accession to the European Union, approved as amended by Law No 191/2007, as amended, in the case of authentic instruments an application for precautionary attachment must be made to the court having jurisdiction in the proceedings of first instance (Article 945(1) of the Code of Civil Procedure).

The decision on the application, the enforcement of the measure and the annulment or lifting of the attachment are carried out in accordance with the provisions set out in Articles 954 – 959. These provisions (Article 971(1) of the Code of Civil Procedure apply accordingly to authentic instruments.

Pursuant to Articles 94 and 95 of the Code of Civil Procedure, the courts with jurisdiction for proceedings of first instance are:

District Courts for claims which can be expressed in terms of money, up to and including RON 200 000 and

Tribunals.

The list of District Courts is published on the Atlas site in the section '[Serving documents](#)'.

The list of Tribunals is published on the Atlas site in the section '[Judgments in civil and commercial matters -Brussels I Regulation](#)'.

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

Under Article 2 of Article I<sup>8</sup> of Government Emergency Order No 119/2006 on certain measures necessary to implement certain Community Regulations from the date of Romania's accession to the European Union, approved as amended by Law No 191/2007, as amended, the Romanian National Union of Judicial Enforcement Officers (UNEJ) is the authority competent to obtain account information under Article 14 of Regulation (EU) No 655/2014 of the European Parliament and of the Council.

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

The method is that provided for in Article 14(5)(b) of the Regulation.

The Romanian National Union of Judicial Enforcement Officers has access to an IT system made available, in accordance with the law, free of charge by the Ministry of Public Finance.

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

Under Article 1(2) of Article I<sup>8</sup> of Government Emergency Order No 119/2006 on certain measures necessary to implement certain Community Regulations from the date of Romania's accession to the European Union, approved as amended by Law No 191/2007, as amended, in application of Article 21 of Regulation (EU) No 655/2014, in the event of a refusal to issue a Preservation Order, the decision rejecting the application for a European Account Preservation Order may be appealed against before the court above the court which handed down the decision.

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

Under Article 623 of the Code of Civil Procedure, compulsory enforcement of any enforcement order, with the exception of those concerning revenue owed to the consolidated general budget or the budget of the European Union or of the European Atomic Energy Community, is carried out **only by judicial enforcement officers**, even if specific laws stipulate otherwise.

The decision on the application, the enforcement of the measure and the annulment or lifting of the attachment will be carried out in accordance with the provisions set out in Articles 954 – 959, which apply correspondingly (Article 971(1) of the Code of Civil Procedure).

The precautionary attachment measure is carried out by a judicial enforcement officer, in accordance with this Code's rules on enforcement, which apply correspondingly, without any authorisation or permission to this effect being required (Article 955(1) of the Code of Civil Procedure).

Under Article 652(1)(b) of the Code of Civil Procedure, unless otherwise provided for by law, court judgments and other enforceable titles are enforced by the enforcement officer serving the area of jurisdiction of the court of appeal, in the case of the seizure of movable assets and direct enforcement against movable property, the enforcement officer serving the area of jurisdiction of the court of appeal covering the location of the domicile or registered office of the debtor, or serving the area of jurisdiction of the court of appeal covering the location of the assets; if the debtor's domicile or registered office is located abroad, any judicial enforcement officer is competent.

Under Article 652(2) and (4) of the Code of Civil Procedure, if seizable movable assets are located within the areas of jurisdiction of several courts of appeal, any of the judicial enforcement officers attached to one of those courts has enforcement competence, including in relation to the seizable assets in the areas of jurisdiction of the other courts of appeal.

If the judicial enforcement officer initially empowered by the creditor finds that there are no seizable assets and income within his/her territorial jurisdiction, the creditor may request the court of enforcement to continue enforcement using another judicial enforcement officer, with the provisions of Article 653(4) applying accordingly.

Under Article 7(b), (c) and (e) of Law No 188/2000 on judicial enforcement officers, the officer: serves judicial and extrajudicial documents; serves procedural documents; carries out precautionary measures ordered by the court.

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

Under Article 623 of the Code of Civil Procedure, enforcement of any enforcement order, with the exception of those relating to revenue owed to the consolidated general budget or the budget of the European Union or of the European Atomic Energy Community, is carried out **only by a judicial enforcement officer**, even if specific laws stipulate otherwise. The decision on the application, the enforcement of the measure and the annulment or lifting of the attachment will be carried out in accordance with the provisions set out in Articles 954 – 959, which apply correspondingly (Article 971(1) of the Code of Civil Procedure). The precautionary attachment measure is carried out by the judicial enforcement officer, in accordance with this Code's rules on enforcement, which apply correspondingly, without any authorisation or permission to this effect being required (Article 955(1) of the Code of Civil Procedure).

As soon as he or she receives the application for enforcement, the enforcement officer, by issuing a decision, arranges for the registration of the application and the opening of the enforcement file or, as the case may be, issues a reasoned refusal to initiate enforcement proceedings. The decision is notified immediately to the creditor. If the enforcement officer refuses to open enforcement proceedings, the creditor can lodge a complaint, within 15 days from the date of service of the decision, with the court of enforcement (Article 665 of the Code of Civil Procedure).

Pursuant to Article 7(e) of Law No 188/2000 on judicial enforcement officers, the judicial enforcement officer will carry out precautionary measures ordered by the court.

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

Judgments that are provisionally enforced with a security being deposited will not be enforced before the security deposit is lodged (Article 678 of the Code of Civil Procedure).

Anyone who is held personally liable shall bear such liability with all his or her movable or immovable assets, present and future. They shall serve as a joint security for his or her creditors. Non-seizable assets shall not serve as such a security. Creditors whose claims arose in connection with a certain division of property authorised by law must first seek enforcement against the assets making up that estate. If these are not sufficient to satisfy the claims, enforcement can also be sought against other assets of the debtor. Assets that are the subject of a legally authorised division of property assigned to the exercise of a profession may be pursued only by creditors whose claims arose in connection with the profession concerned. These creditors will not be able to pursue other assets of the debtor. (Article 2324 of the Code of Civil Procedure)

If he or she considers that it is in the interest of enforcement, the judicial enforcement officer will request the debtor, in accordance with the law, to provide written explanations regarding the latter's income and assets, including common property held in shared or joint ownership against which enforcement can be carried out, and to indicate the location thereof, and may also, with a view to persuading the debtor to fulfil the obligation voluntarily, point out the consequences in the event of continuation of enforcement proceedings. At all events, the debtor will be informed of the estimated cost of enforcement. (Article 627(2) of the Code of Civil Procedure)

The debtor is obliged, subject to the sanctions provided for in Article 188(2) to declare, at the request of the judicial enforcement officer, all movable and immovable assets, including common property held in shared or joint ownership, indicating the location thereof, as well all current or regular income. (Article 647(2) of the Code of Civil Procedure)

The division of common property assets held in shared or joint ownership may also be ruled on, at the request of the party concerned, within the framework of the objection-to-enforcement proceedings. (Article 712(4) of the Code of Civil Procedure)

If, through an objection to enforcement, the party concerned has applied for the division of assets held as common property, the court will rule on their division in accordance with the law. (Article 720(2) of the Code of Civil Procedure)

Movable assets that are the subject of an authorised division of assets assigned to the exercise of a profession may be pursued only by creditors whose claims have arisen in connection with the exercise of the profession concerned. If assets are not assigned to an individual pool of business assets but nevertheless serve the exercise of an occupation or profession of a debtor who is a natural person, they may be subject to enforcement only if there are no other seizable assets, and then only for maintenance obligations or other privileged claims on movable assets. If the debtor is engaged in agriculture such business assets shall not be subject to enforcement to the extent they are required for the continuation of agricultural activity: agricultural inventories, including working animals, feed for those animals and seed for cultivation, except where such assets are pledged as security or they are the subject of a privileged claim. (Article 728 of the Code of Civil Procedure)

For enforcement against nominee accounts (held by a third party on behalf of the debtor or by a debtor on behalf of a third party), certain rules of principle exist as regards representation and nomination with representation, as specified below.

Article 1295 of the Code of Civil Procedure stipulates that the power of representation may derive from the law, from a legal act or from a court judgment, as the case may be.

Under Article 1296 of the Code of Civil Procedure, a contract concluded by a representative, within the limits of power of attorney, on behalf of the party represented produces effects directly between the represented party and the other contractual party.

Under Article 2021 of the Code of Civil Procedure, in the absence of any agreement to the contrary, a nominee who has fulfilled the mandate bears no liability vis-a-vis the nominator with regard to the discharge of the obligations entered into by the persons/entities with whom/which a contract has been concluded, except if their insolvency was or should have been known to the nominee on the date of the conclusion of the contract with those persons/entities.

Under Article 1309(1) of the Code of Civil Procedure, a contract concluded by a person/entity who is acting as a representative but who does not have power of attorney or exceeds the powers conferred shall not produce effects between the represented party and third parties.

Under Article 1311 of the Code of Civil Procedure, in the cases provided for in Article 1309, the party on whose behalf the contract was concluded may ratify it observing legal formalities for its valid conclusion; the contracting third party may, by notification, grant a reasonable period of time for ratification, after which the contract can no longer be ratified.

Under Article 1309(2) of the Code of Civil Procedure, however, if through their behaviour the representative has caused the contracting third party to reasonably believe that the representative has the power to represent and is acting within the powers conferred, the representative can no longer invoke vis-a-vis the contracting third party a lack of power to represent.

Under Article 1310 of the Code of Civil Procedure, any person or entity concluding a contract as a representative without being empowered to do so, or in so doing exceeds the limits of the powers conferred, bears liability for any damage caused to a contracting third party who believed in good faith that the conclusion of the contract had been valid.

Under Article 1297 of the Code of Civil Procedure, a contract concluded by a representative acting within the powers conferred but where the contracting third party is not and could not have been aware that the representative was acting in such capacity is binding only upon the representative and the third party, unless otherwise provided for by law; however, if a representative, when entering into a contract with a third party on behalf of an enterprise and within the limits of the powers conferred, claims to be the owner of that enterprise and the third party subsequently discovers the identity of the real owner, then the third party may also exercise vis-a-vis the real owner the rights acquired vis-a-vis the representative.

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

Article 729 Limits on enforcement against monetary income under the Code of Civil Procedure.

(1) Enforcement can be carried out against wages or salaries and other regular income, pensions granted under social security schemes, and other amounts paid regularly to the debtor as a means of subsistence: a) up to half of net monthly income in the case of amounts owed by way of maintenance obligation or child allowance; b) up to a third of net monthly income in the case of any other debts.

(2) If several enforcement orders apply to the same amounts, total enforcement cannot exceed half of the debtor's net monthly income, irrespective of the nature of the claims, unless otherwise provided for by law.

(3) Where wages or any other amounts regularly paid to the debtor as a means of subsistence are lower than the minimum wage paid in the economy, enforcement can be carried out against them only in respect of the amount by which they exceed half of that minimum wage.

(4) Benefits for temporary incapacity to work, compensation granted on the basis of any legal provisions to employees for termination of an individual contract of employment, and amounts due to the unemployed, in accordance with the law, can be subject to enforcement only for amounts owed by way of maintenance obligation and compensation for damages caused by death or personal injury, unless otherwise provided for by law.

(5) Enforcement against the benefit entitlements referred to in paragraph (4) is permissible up to half their amount.

(6) Amounts withheld in accordance with the provisions set out in paragraphs (1) - (4) shall be released or distributed in accordance with Article 864 et seq.

(7) State allowances, child benefit, support for looking after sick children, maternity allowance, death benefit, State study grants, daily subsistence allowances, and any other such specialpurpose allowances established by law cannot be the subject of enforcement for any kind of debt.

Article 970 Subjects of attachment orders under the Code of Civil Procedure

Attachment orders may be placed on amounts of money, securities or other seizable intangible movable assets owed to the debtor by a third party or which the latter will owe to the debtor in the future on the basis of existing legal relationships, subject to the conditions laid down in Article 953.

Article 631(1) of the Code of Civil Procedure.

Enforcement can be initiated against any natural person or legal person under public or private law, except for those who, in accordance with the law, enjoy immunity from enforcement.

Article 781(2) and (5) of the Code of Civil Procedure.

In the case of attachment of sums of money in bank accounts, both the credit balance of those accounts and future payments into them can be subject to attachment, within the limits set out in Article 729, if applicable.

Not subject to enforcement are:

- a) amounts intended for special purposes provided for by the law, and over which the debtor has no right of disposal;
- b) amounts representing non-reimbursable funding or financing from national or international institutions or organisations for certain programmes or projects;
- c) amounts relating to future salary entitlements, over a period of three months from the date of the establishment of the attachment. Where several attachment orders have been placed on the same account, the three-month period during which payments relating to future salary entitlements can be made is calculated only once, from the date on which the first attachment is established.

**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**

Not applicable (is not the case).

On the basis both of contractual relations between banks and clients and of specific banking legislation, the implementation of preservation measures affecting clients' accounts is a transaction for which banks charge an attachment fee (both for precautionary measures and enforcement measures against the accounts of clients). The fee is set when the attachment is established, but, in the case of account preservation transactions (the subject of the Regulation) **the fee is in practice not collected from the client.**

The reason for this is that the fee is actually collected when amounts of money are released to the courts/tax authorities, i.e. at the time of transfer of seized amounts. However, the purpose of the Regulation is to preserve the amount and not to effect its payment. The purpose of the Regulation is not enforceable attachment.

As a result, in the case of precautionary measures (such as a European Account Preservation Order) where no 'final step' (of release) actually takes place, but only the preservation operation carried out by the bank following receipt of documentation from a body that has ordered that the measure in question be taken, **the fee is not, in practice, collected from the client.**

**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**

For notification and service of procedural documents, judicial enforcement officers charge minimum fees of RON 20 and maximum fees of RON 400 (see point 1 of Annex I to Order No 2550/C/14.11.2006 of the Minister for Justice approving the minimum and maximum fees for services provided by judicial enforcement officers).

For enforcement of preservation orders, judicial enforcement officers charge minimum fees of RON 100 and maximum fees of RON 1 200 for debtors who are natural persons and RON 2 200 for debtors who are legal entities (see point 10 of Annex I to Order No 2550/C/14.11.2006 of the Minister for Justice approving the minimum and maximum fees for services provided by judicial enforcement officers).

The fees charged by judicial enforcement officers are published on the website of the Union of Judicial Enforcement Officers in the section 'Legislative Framework', Orders, Order No 2550 of 14 November 2006 approving minimum and maximum fees for services provided by judicial enforcement officers.

<https://www.executori.ro/CadruLegislativ.aspx> .

The fees are charged for services provided by judicial enforcement officers in Romania.

For judicial stamp duties, see the information provided at (n).

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

Under ordinary law, no ranking exists between precautionary attachments, but between claims whose preservation is sought, depending on their type.

Article 865 General preference ranking of claims under the Code of Civil Procedure

(1) Where enforcement has been initiated by several creditors or where, before the release or distribution of the amount resulting from enforcement, other creditors have also filed their enforceable titles, the judicial enforcement officer will proceed with distribution according to the following order of preference, unless otherwise provided for by law:

- a) claims representing legal costs, for preservation measures or enforcement, for the conservation of assets whose price is being distributed, any other costs incurred in the common interest of the creditors, as well as claims arising against the debtor in respect of expenditure incurred in fulfilling the conditions or formalities provided for by law for acquisition of title to the asset awarded and its entry in the public register;
- b) funeral expenses of the debtor, depending on particular circumstances;
- c) claims representing salaries and other equivalent debts, pensions, amounts due to unemployed persons, in accordance with the law, support for maintenance and care of children, maternity, temporary incapacity to work, prevention of disease, restoration or strengthening of health, death benefit, granted under social security schemes, as well as claims representing the obligation to pay damages for death, injury to bodily integrity or health;
- d) claims resulting from the legal obligation to provide for maintenance, child allowances or the obligation to pay other regular amounts intended as a means of subsistence;
- e) tax claims arising from taxes, fees, contributions and other amounts established by law, owed to the State budget, the budget of State social security schemes, local budgets or budgets of special funds;
- f) claims deriving from loans granted by the State;
- g) compensation claimed for the repair of damage inflicted on public property by illegal acts;
- h) claims arising from bank loans, deliveries of products, provision of services or performance of works, as well as from rents or leases;

- i) claims in the form of fines payable to the State budget or to local budgets;
- j) other claims.

(2) The provisions concerning legal subrogation remain applicable to the benefit of any party paying any of the claims referred to in paragraph (1).

(3) Where claims are in the same preference category, unless the law provides otherwise, the amount obtained will be shared out among the claimants in proportion to each claim.

#### Article 866 Declaration of claims of the State

(1) Within 15 days of the commencement of enforcement proceedings, in accordance with the law, any creditor may request the State or local administrative bodies to declare any privileged claims they may have. Such a request will be recorded in the public registers only if proof is provided of notification having been made to the local tax authorities.

(2) Within 30 days of the notification, the State or the local administrative body concerned must declare and register the amount of its claim.

(3) Failure to comply with the obligation referred to in paragraph (1) will result in the loss of preference over creditors who requested the declaration.

#### Article 867 Ranking of secured claims

If there are creditors who hold rights of pledge, mortgage rights or other preserved preference rights in respect of the asset sold, under the conditions provided for by law, when the amount resulting from the sale of the asset is distributed their claims will be paid before those referred to in Article 865(1)(c).

#### Article 868 Ranking of ancillary claims

Interest and penalties or other claims ancillary to the principal claim will follow the ranking of the latter.

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

Under Article 1(3) and (4) of Article I<sup>8</sup> of Government Emergency Order No 119/2006 on certain measures necessary to implement certain Community Regulations from the date of Romania's accession to the European Union, approved as amended by Law No 191/2007, as amended, *the remedy provided for in Article 33(1) of Regulation (EU) No 655/2014 falls within the jurisdiction of the court above the court that handed down the decision granting the application for a European Account Preservation Order.*

*The remedies against enforcement of the account preservation order provided for in Article 34 of Regulation No 655/2014 fall within the jurisdiction of the court of enforcement.*

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

Under Article 1(5) of Article I<sup>8</sup> of Government Emergency Order No 119/2006 on certain measures necessary to implement certain Community Regulations from the date of Romania's accession to the European Union, approved with amendments by Law No 191/2007, as amended, *the appeals provided for in Article 37 of Regulation (EU) No 655/2014 fall within the jurisdiction of the court above the court referred to in paragraphs (3) or (4) of this Article, i.e. of the court above the court referred to in Article 35 of that Regulation; appeals must be filed within 30 days of delivery of the judgment, except where the law provides otherwise.*

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

Under Article 11(1)(b) of Government Emergency Order No 80/2013 on judicial stamp duties, as amended, the fees charged for the various applications are as follows:

for applications relating to precautionary measures - RON 100;

for applications concerning the imposition of precautionary measures in respect of ships or aircraft – RON 1 000;

for applications for a European Account Preservation Order, formulated in accordance with Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters - RON 100.

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

Romania does not accept any language other than Romanian (Article 128(1) of the Constitution and Article 16(1) of Law No 304/2022 on judicial organisation).

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