

[Home](#) > ... > [Taking Legal Action](#) > [European Judicial Atlas In Civil Matters](#) > [European Account Preservation Order](#) > Croatia

European Account Preservation Order

Croatia



Croatia

FINDING COMPETENT COURTS/AUTHORITIES

The search tool below will help you to identify court(s)/authority(ies) competent for a specific European legal instrument. Please note that although every effort has been made to ascertain the accuracy of the results, there may be some exceptional cases concerning the determination of competence that are not necessarily covered.

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

The courts designated as competent to issue a Preservation Order, as referred to in Article 6(4) of the Regulation, are the Croatian courts which are competent to rule on the merits of a case in accordance with the Courts Act (*Zakon o sudovima*) (*Narodne Novine* (NN; Official Gazette of the Republic of Croatia) Nos 28/13, 33/15, 82/15, 82/16, 67/18, 126/19, 130/20, 21/22, 60/22 and 16/23), the Civil Procedure Act (*Zakon o parničnom postupku*) (NN Nos 53/91, 91/92, 112/99, 129/00, 88/01, 117/03, 88/05, 2/07, 96/08, 84/08, 123/08, 57/11, 25/13, 89/14, 70/19, 80/22 and 114/22; hereinafter 'ZPP') and other specific regulations. In the Republic of Croatia those courts are the municipal courts (*općinski sudovi*; sing. *općinski sud*) and commercial courts (*trgovački sudovi*; sing. *trgovački sud*) where proceedings are conducted at first-instance level.

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

The authority competent to obtain information on a debtor's account or accounts, as referred to in Article 14 of the Regulation, is:

Financial Agency (*Financijska agencija*)

Ulica grada Vukovara 70, 10000 Zagreb, Croatia

toll free telephone number: +385 0 800 0080

e-mail address: info@fina.hr

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

The account information referred to in Article 14(5) of the Regulation is obtained by access for the information authority to the relevant information where that information is held by public authorities or administrations in registers or otherwise (Article 14(5)(b) of the Regulation).

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

The competent court for ruling on an appeal under Article 21 of the Regulation which a creditor has lodged with a court of first instance against a decision rejecting, wholly or in part, the creditor's application for a Preservation Order is the higher court which was competent for ruling on an appeal against a decision rejecting a proposal for

security (a county court (*županijski sud*) or the High Commercial Court of the Republic of Croatia (*Visoki trgovački sud Republike Hrvatske*) — Articles 34a and 34c ZPP, NN Nos 53/91, 91/92, 58/93, 112/99, 88/01, 117/03, 88/05, 02/07, 84/08, 123/08, 57/11, 148/11, 25/13, 89/14, 70/19, 80/22 and 114/22 in connection with Article 21(1) of the Enforcement Act (*Ovršni zakon — OZ*)) - links:

https://narodne-novine.nn.hr/clanci/sluzbeni/2011_12_148_2993.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2013_02_25_405.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2019_07_70_1447.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2022_07_80_1170.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2022_10_114_1713.html

Consequently, if the application for a Preservation Order is rejected, wholly or in part, by a decision of a municipal court, the creditor will lodge an appeal with the county court through the municipal court, whereas if such a decision is adopted by a commercial court, the creditor will lodge an appeal against the decision with the High Commercial Court through the commercial court concerned.

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 under Article 14(4) of the Regulation is:

Zagreb Municipal Civil Court (*Općinski građanski sud u Zagrebu*)

Ulica grada Vukovara 84

10000 Zagreb.

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

The authority competent to enforce the Preservation Order in accordance with Chapter 3 of the Regulation is:

Financial Agency (FINA)

Ulica grada Vukovara 70, 10000 Zagreb, Croatia

toll free telephone number: +385 0 800 0080

e-mail address: info@fina.hr

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

A payment account which is managed by a payment services provider on behalf of one or more users of payment services, and which is used to carry out payment transactions, may be completely preserved.

Funds held in a nominee account may not be preserved where that is prohibited by law.

Article 42 of the Consumer Bankruptcy Act (*Zakon o stečaju potrošača*) (NN Nos 100/15, 67/18 and 36/22; hereinafter 'ZSP') states that the bankruptcy commissioner has a duty to open a separate current account with a financial institution for each individual consumer in relation to whom bankruptcy proceedings have been opened under a court order – links:

https://narodne-novine.nn.hr/clanci/sluzbeni/2015_09_100_1936.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2018_07_67_1364.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2022_03_36_432.html

This is a current account which the commissioner in the consumer's bankruptcy proceedings opens with a financial institution in his/her own name on behalf of the consumer concerned. The commissioner may use that separate account only for the purposes of receiving and making payments relating to the management and disposal of the bankruptcy estate of the consumer who is the subject of bankruptcy proceedings, and the commissioner is obliged to keep separate from his/her own assets any payments made into the account relating to the management and disposal of the bankruptcy estate.

Article 42(4) ZSP provides that funds in the separate account may not be the subject of enforcement in relation to the commissioner, and in the event of the bankruptcy or death of the commissioner, such funds do not form part of his/her bankruptcy estate or estate.

Given that, in the event of the bankruptcy of a consumer, the commissioner acts as his/her representative, this account can be said to be a nominee account, containing both the funds of the commissioner and the funds of one or more consumers in relation to whom bankruptcy proceedings have been opened, but the funds of the consumer represented by the commissioner may not be the subject of enforcement or preservation of an account if proceedings are conducted in relation to the commissioner.

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

The amounts exempt from seizure, as referred to in Article 31 of the Regulation, are set out in Article 172 OZ (Exemption from enforcement) and Article 173 OZ (Limitation of enforcement).

If a debtor receives remuneration and allowances as referred to in Article 172 OZ which are exempt from enforcement, or amounts referred to in Article 173 OZ (Limitation of enforcement), he/she is obliged to inform FINA thereof, in accordance with Article 212 OZ.

The links to the Enforcement Act (NN Nos 112/12, 93/14, 73/17, 131/20 and 114/22) are:

https://narodne-novine.nn.hr/clanci/sluzbeni/2012_10_112_2421.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2014_07_93_1877.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2017_07_73_1770.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2020_11_131_2487.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2022_10_114_1716.html

In accordance with Article 173 OZ amounts are excluded from enforcement as follows:

(1) If the salary of the enforcement debtor is subject to enforcement, the amount equal to two thirds of the average net salary for Croatia shall be exempt from distraint. If enforcement is carried out to collect on a statutory maintenance claim, or a claim to compensate for the damage caused by impaired health or a reduction or loss of work capacity and to compensate for the loss of maintenance due to the death of the person who has provided maintenance, the amount shall be set as one half of the average net salary in Croatia, except when enforcement is carried out in order to forcibly collect the money due as child maintenance. In such cases, the amount exempt from distraint shall be one quarter of the average net salary per person employed by legal persons in Croatia in the previous year.

(2) If the enforcement debtor has a salary that is lower than the average net salary for Croatia, the amount equal to three quarters of the enforcement debtor's salary, but not more than two thirds of the average net salary in Croatia shall be exempt from distraint. If enforcement is carried out to collect on a statutory maintenance claim, or a claim to compensate for the damage caused by impaired health or a reduction or loss of work capacity and to compensate for the loss of maintenance due to the death of the person who has provided maintenance, the amount shall be set as one half of the enforcement debtor's net salary, except when enforcement is carried out in order to forcibly collect the money due as child maintenance. In such cases, the amount exempt from distraint shall be one quarter of the enforcement debtor's net salary.

(3) The term 'average net salary' within the meaning of paragraph 1 of this article shall be the average amount paid as a monthly net salary per person employed by legal persons in Croatia in the period between January and

August of the current year, which shall be determined by the Croatian Bureau of Statistics (*Državni zavod za statistiku*) and published in NN not later than on 31 December of the current year. The amount set in this manner shall be applicable in the following year.

(4) The provisions of paragraphs 1 and 2 of this article shall also apply to enforcement when any compensation paid in lieu of a salary, compensation for reduced working time, compensation for reduced salary, pension, military service personnel pay and pay received by persons in the reserve force while they are in military service and any other regular pecuniary income paid to civilian and military personnel are subject to attachment, with the exception of the income referred to in paragraphs 5 and 6 of this article.

(5) Enforcement by attachment of income received by disabled persons as a pecuniary benefit for physical disability and as care allowance may be carried out only to collect on a statutory maintenance claim, or a claim to compensate for the damage caused by impaired health or a reduction or loss of work capacity and to compensate for the loss of maintenance due to the death of the person who has provided maintenance, in which case the amount shall be set as one half of such income.

(6) Enforcement by attachment of income received under a lifelong support contract and a lifelong annuity payment contract, as well as income received under a life insurance contract may only be carried out on the portion of income which exceeds the principal amount used to calculate the amount of the support for maintenance.

(7) The provisions of paragraphs 1 and 2 of this article shall also apply when enforcement is carried out on income which does not come from a salary, pension or revenue from self-employed trade and craft activities, liberal professions, agriculture and forestry, property and property rights, capital or insurance ('other income' in accordance with separate rules) if the enforcement debtor can prove by a public document that this income is his/her only regular cash income.

The average net monthly salary paid to employees of legal persons in Croatia in 2022 was HRK 7 653. (https://narodne-novine.nn.hr/clanci/sluzbeni/2022_10_125_1909.html)

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

FINA and banks are entitled to charge a fee for the implementation of Preservation Orders and for implementation of enforcement and security with respect to funds in accounts, in accordance with the Rules on the types and amount of fees for the performance of the tasks laid down in the Implementation of Enforcement with respect to Funds Act (NN, Nos 105/10, 124/11, 52/12 and 6/13; hereinafter 'the Rules') - links:

https://narodne-novine.nn.hr/clanci/sluzbeni/2010_09_105_2831.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2011_11_124_2491.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2012_05_52_1278.html

https://narodne-novine.nn.hr/clanci/sluzbeni/2013_01_6_90.html

Article 6 of the Rules states that the fee is to be paid by the debtor.

The Rules lay down the fee for the performance of the tasks specified in the Implementation of Enforcement with respect to Funds Act (NN Nos 91/10 and 112/12).

The Rules lay down two types of fee:

1. for enforcement with respect to funds of the enforcement debtor, and
2. for consultation and provision of data from the Single Register of Accounts.

The fees for enforcement with respect to funds of the enforcement debtor fall into four groups:

- examination of the possibility of enforcing an enforcement instrument
- calculation of interest
- enforcing an enforcement instrument
- provision of data, copies and certificates from the Record of the order of enforcement instruments.

The fee for examination of the possibility of enforcing an enforcement instrument and the fee for the calculation of interest are levied by FINA for receiving enforcement instruments (the sum of claims which the debtor has to pay to the creditor in accordance with the court decision) and entering them in the Record. A fee is also levied for checking whether an enforcement instrument contains the necessary data for enforcement, and for the calculation of interest. Those two fees, plus the fee for enforcing an enforcement instrument, are payable in full by the debtor.

The revenue from the fee for enforcing an enforcement instrument is split between FINA (55%) and the banks (45%). The revenue is distributed to the banks in proportion to the total number of accounts held by the debtor in a particular bank on the day on which the fee is levied, in accordance with the data in the Single Register of Accounts.

The fee for the provision of data, copies and certificates from the Record of the order of enforcement instruments is paid by the applicant in advance on the basis of a payment request. The person who submits an application to FINA must provide evidence of payment, after which that person receives the requested data and copies, and an invoice is issued for the service provided.

FINA charges for consultation and provision of data from the Single Register of Accounts by levying a fee for the consultation of data using a web or online service, or a fee for the provision (or downloading) of data from the Single Register of Accounts in electronic form or on paper.

FINA adopts the price list, containing the amounts of fees, on the basis of a decision of its Board of Management, and the Ministry of Finance approves the proposed price list. The price list is published on FINA's official website. VAT is charged on all fees in the price list.

Link to [extract from FINA's price list](#) - fees for the performance of tasks specified in the Implementation of Enforcement with respect to Funds Act.

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 the enforcement of a Preservation Order, FINA and the banks charge the fees set out in Article 43 of the Regulation on the basis of the Rules. FINA charges a fee for the provision of data, copies and certificates from the Record or data on the account. The amounts of the fees are laid down in Article 8 of the Rules.

The fee depends on the amount for which preservation is requested, and ranges from EUR 6.64 to EUR 663.61.

Implementation of preservation

Value-added tax is charged on fees under point 4 of this paragraph.

The amounts of the fees indicated in Article 7 of the Rules have been set as follows:

Description of task	Basis for calculation	Amount in EUR
Record of the order of enforcement instruments	document	2.65
Detailed statement for collecting on an enforcement instrument	document	2.65
Certificate of preservation of an account and funds	document	no fee

Description of task	Basis for calculation	Amount in EUR
Record of date of preservation	document	no fee
Other certificates	document	2.65
Certificate in English	document	9.95
Record of the order of enforcement instruments	document	1.33
Detailed statement for collecting on an enforcement instrument	document	1.33
Certificate of preservation of an account and funds	document	no fee
Record of date of preservation	document	no fee
Other certificates	document	1.33
Certificate in English	document	2.65
Up to 1 000 syllables per application	syllable	0.27 (at least 27.21 per file)
Between 1 001 syllables and 5 000 syllables	syllable	0.14
5 001 syllables or more	syllable	0.07
On paper	page	0.33
In electronic format	enforcement instrument / document	1.33
Consultation of original and issuing of notarised copy of enforcement instrument	enforcement instrument	33.18

Value-added tax is charged on fees under this paragraph.

Article 5(1) of these Rules states that fees for enforcement are to be divided between FINA and the banks which FINA, in a procedure pursuant to an enforcement instrument, ordered to carry out the recovery of amounts due, with FINA to receive 55% of each fee, and the banks 45%.

In proceedings for obtaining a Preservation Order or a remedy against a Preservation Order, a court fee based on the value of the application is to be paid, in accordance with the Court Fees Act (*Zakon o sudskim pristojbama*, NN, Nos 118/18 and 51/23; hereinafter 'ZSP') — cf. the notification in connection with Article 50(1)(n) of the Regulation.

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

The ranking under Article 32 of the Regulation is governed by Article 78 OZ, which provides that, where several creditors bring monetary claims against the same debtor and for the same object of enforcement, those claims are to be settled in the order in which the creditors acquired the right to settlement from that object, unless the law provides otherwise.

The order of priority of the security interests of several creditors is determined on the basis of the date of receipt of the Preservation Order (Article 180 OZ) – link: <https://narodne-novine.nn.hr/>

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

The body competent for ruling on an application from a debtor for revocation or modification of a Preservation Order, as referred to in Article 33 of the Regulation, is the Croatian court which issued the Preservation Order.

The body competent for ruling on an application by a debtor for the enforcement of a Preservation Order in the Republic of Croatia to be limited or terminated, as referred to in Article 34(1) and (2) of the Regulation, is:

Zagreb Municipal Civil Court

Ulica grada Vukovara 84

10000 Zagreb.

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

The court with competence for ruling on an appeal against a decision of the court of first instance, as referred to in Article 37 of the Regulation, in connection with Articles 33, 34 and 35 of the Regulation, is the higher court which was competent for ruling on the appeal against the decision on security (county courts or the High Commercial Court of the Republic of Croatia — Articles 34a and 34c of the Civil Procedure Act (ZPP), in connection with Article 21(1) OZ).

An appeal is to be brought within eight days of the date of service of the decision (Article 11 OZ) and is to be submitted through the court which adopted the decision (Article 357 ZPP).

Article 2(1)(9) OZ states that the expression ‘decision on security’ means a decision granting, wholly or in part, a proposal for security or ordering security *ex officio*.

Article 50(1)(n) – Court fees

In proceedings to obtain a Preservation Order or a remedy against an Order, as referred to in Article 42 of the Regulation, court fees are payable on the basis of the value of the application, as follows:

- on an application for a Preservation Order as a proposal for security;
- on a decision on an application for a Preservation Order as a decision on security;
- on submissions as referred to in Article 364b(2) to (5) OZ as appeals against a decision on security.

Unless stipulated otherwise, the obligation to pay a fee is incurred at the time when a proposal for enforcement of a Preservation Order or an appeal is presented, as laid down by Article 4 ZSP.

Court fees may be calculated for each individual operation, depending on the value of the subject of the dispute, in accordance with the following table:

	Up to EUR	EUR
	398.17	13.27
398.18	796.34	26.54
796.35	1 194.51	39.82
1 194.52	1 592.67	53.09
1 592.68	1 990.84	66.36

Over EUR 1 990.84 a fee of EUR 66.36 is to be paid, plus 1% of the amount over EUR 1 990.84, up to a maximum of EUR 663.61.

Where the services subject to a court fee are correctly indicated in the first paragraph of this article, that fee is to be paid in accordance with the Decree on the Court Fee Tariff (*Uredba o Tarifi sudskih pristojbi*) (NN No 37/23) in the following manner:

- on an application for a Preservation Order or on a decision on an application for a Preservation Order, half of the fee as per the amounts set out in the table is payable (except where the decision on an application is adopted on the basis of foreign enforcement instruments, in which case the full amount of the fee is payable)

- on submissions as referred to in Article 364b(2) to (5) OZ, a fee of the amount set out in the table is payable.

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

Not applicable.

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