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European Account Preservation Order

Luxembourg

Luxembourg



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

(1) For claims of less than or equal to EUR 15 000, the justice of the peace (*juge de paix*) has jurisdiction:

Justice de paix de Luxembourg

Cité Judiciaire, Bâtiment JP, Plateau du Saint-Esprit

L-2080 Luxembourg

Justice de paix d'Esch-sur-Alzette

Place Norbert Metz

L-4006 Esch-sur-Alzette

Justice de paix de Diekirch

Bei der Aaler Kiirch,

L-9201 Diekirch

(2) For claims of more than EUR 15 000, the President of the district court (*Président du tribunal d'arrondissement*) has jurisdiction:

Tribunal d'arrondissement du Luxembourg

Cité Judiciaire, Bâtiment TL, CO, JT;

Plateau du Saint-Esprit;

L-2080 Luxembourg

Tribunal d'arrondissement de Diekirch

Palais de Justice

Place Guillaume

L-9237 Diekirch

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

The authority competent to obtain account information is the Financial Sector Supervisory Commission (*Commission de Surveillance du Secteur Financier*).

Commission de Surveillance du Secteur Financier

283, route d'Arlon

L-1150 Luxembourg

Tel. +352 26251-1

Fax: +352 26251-2601

Email: direction@cssf.lu

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

The method of obtaining account information is set out in Article 14(5)(a), i.e.:

'an obligation on all banks in its territory to disclose, upon request by the information authority, whether the debtor holds an account with them;'

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

- The President of the district court or the judge replacing them, sitting as in urgent proceedings (*siégeant comme en matière de référé*), has jurisdiction to hear appeals against decisions of the justice of the peace:

Tribunal d'arrondissement du Luxembourg

Cité Judiciaire, Bâtiment TL, CO, JT;

Plateau du Saint-Esprit;

L-2080 Luxembourg

Tribunal d'arrondissement de Diekirch

Palais de Justice

Place Guillaume

L-9237 Diekirch

- The court of appeal (*Cour d'appel*), sitting as in urgent proceedings, has jurisdiction to hear appeals against decisions of the President of the district court:

Cour d'appel

Cité Judiciaire, Bâtiment CR,

Plateau du Saint-Esprit

L-2080 Luxembourg

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

Bailiffs (*huissiers de justice*) are the competent authority.

You can search for a bailiff on this site: [Bailiffs Association of Luxembourg](#) (*Chambre des huissiers de justice de Luxembourg*)

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

Bailiffs (*huissiers de justice*) are the competent authority.

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

A joint account (*compte joint*) may, in principle, be subject to preservation (*saisie conservatoire*) under Luxembourg law.

Joint accounts operate according to the principle governing joint and several creditors (*solidarité active*).

Article 693 of the New Code of Civil Procedure (*Nouveau Code de Procédure Civile*) and Article 1197 of the Civil Code (*Code Civil*) apply.

The provisions of the New Code of Civil Procedure and the Civil Code are available on the [LEGILUX](#) website.

A nominee account (*compte de mandataire*) is, in principle, ineligible for preservation under Luxembourg law. There are no specific rules in this area.

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

Article 717 of the New Code of Civil Procedure states that:

'The following shall be ineligible for seizure:

(1) items declared by law to be ineligible for seizure;

(2) maintenance payments (provisions alimentaires) awarded by a court;

(3) available sums and items declared ineligible for seizure by a testator (testateur) or donor (donateur);

(4) sums and allowances for maintenance (sommets et pensions pour aliments), even where a will (testament) or deed of gift (acte de donation) does not declare them ineligible for seizure. '

As regards '(1) items declared by law to be ineligible for seizure', Article 33 of the amended Law of 28 July 2018 on social inclusion income (*loi modifiée du 28 juillet 2018 relative au revenu d'inclusion sociale*) and the grand-ducal regulation of 27 September 2016 setting the rates for assignment and attachment of salaries, pensions and annuities (*règlement grand-ducal du 27 septembre 2016 fixant les taux de cessibilité et de saisissabilité des rémunérations de travail, pensions et rentes*) apply.

These amounts are exempted without any request from the debtor.

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

In principle, a banker may deduct from the amount preserved the costs they had to incur in order to meet the legal obligations relating to preservation.

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

Bailiffs' rates are set out in the amended Law of 4 December 1990 on the organisation of bailiffs (*loi modifiée du 4 décembre 1990 portant organisation du service des huissiers de justice*) and by the amended grand-ducal regulation of 24 January 1991 setting rates for bailiffs (*règlement grand-ducal modifié du 24 janvier 1991 portant fixation du tarif des huissiers de justice*).

The relevant provisions are available on the LEGILUX website:

- Amended Law of 4 December 1990 on the organisation of bailiffs:

<https://legilux.public.lu/eli/etat/leg/loi/1990/12/04/n3/jo>

- Grand-ducal regulation of 24 January 1991 setting rates for bailiffs:

<https://legilux.public.lu/eli/etat/leg/rgd/1991/01/24/n2/consolide/20211002>

The consolidated version was updated on 2 October 2021. Article 16 of the amended grand-ducal regulation of 24 January 1991 was amended by the grand-ducal regulation of 21 June 2023.

<https://legilux.public.lu/eli/etat/leg/rgd/2023/06/21/a356/jo>.

A single fixed fee of EUR 165 is charged for the service of judicial and extrajudicial documents in civil or commercial matters, on the basis of Regulation (EU) No 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast).

Fees and remuneration:

The provisions of the amended grand-ducal regulation of 21 March 1974 on the fees and remuneration payable to solicitors and lawyers (*règlement grand-ducal modifié du 21 mars 1974 concernant les droits et émoluments alloués aux avoués et aux avocats*) apply.

The relevant provisions are available on the LEGILUX website:

[Grand-ducal regulation of 21 March 1974 on the fees and remuneration payable to solicitors and lawyers - Legilux \(public.lu\)](#)

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

Not applicable.

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

- Article 33 (appeal against the order itself):

The court with jurisdiction to grant an appeal is:

- either the justice of the peace, sitting as in urgent proceedings
- or the President of the district court or the judge replacing them, sitting as in urgent proceedings (see Article 50(1)(a))

- Article 34 (appeal against enforcement of the order):

- either the justice of the peace, sitting as in urgent proceedings
- or the President of the district court or the judge replacing them, sitting as in urgent proceedings

The rules of jurisdiction *ratione valoris* contained in the New Code of Civil Procedure apply. They correspond to the rules of jurisdiction *ratione valoris* set out under the heading on Article 50(1)(a), above.

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

- The President of the district court or the judge replacing them, sitting as in urgent proceedings, has jurisdiction to hear appeals against decisions of the justice of the peace.
- The court of appeal, sitting as in urgent proceedings, has jurisdiction to hear appeals against decisions of the President of the district court.
- Time limit: 15 days.
- Beginning of the time limit: the date on which service is effected.

Article 50(1)(n) – Court fees

In Luxembourg, court fees are called ‘fees and expenses’ (*frais et dépens*).

According to case law, the ‘expenses’ referred to in Article 238 of the New Code of Civil Procedure in principle cover lawyers’ expenses, bailiffs’ fees, experts’ fees, any allowances paid to witnesses, translation costs, etc., but not lawyers’ fees. The New Code of Civil Procedure is available on the LEGILUX website.

http://legilux.public.lu/eli/etat/leg/code/procedure_civile

Bailiffs’ fees:

Bailiffs’ rates are set out in the amended Law of 4 December 1990 on the organisation of bailiffs and the amended grand-ducal regulation of 24 January 1991 setting rates for bailiffs.

The relevant provisions are available on the LEGILUX website:

- Amended Law of 4 December 1990 on the organisation of bailiffs:

<http://legilux.public.lu/eli/etat/leg/loi/1990/12/04/n3/jo>

- Amended grand-ducal regulation of 24 January 1991 setting rates for bailiffs:

<https://legilux.public.lu/eli/etat/leg/rgd/1991/01/24/n2/consolide/20211002>

The consolidated version was updated on 2 October 2021. Article 16 of the amended grand-ducal regulation of 24 January 1991 was amended by the grand-ducal regulation of 21 June 2023:

<https://legilux.public.lu/eli/etat/leg/rgd/2023/06/21/a356/jo>.

Article 16 of the amended Law of 4 December 1990 on the organisation of bailiffs provides the method of remuneration and states that the relevant details are to be determined by grand-ducal regulation:

‘Bailiffs’ services shall be remunerated at either a fixed or an hourly rate.

A grand-ducal regulation lays down the rate for services and the duration and hourly rate payable.

The district court, civil chamber, shall decide on the taxation of fees and expenses in the event of a dispute.’

The grand-ducal regulation of 24 January 1991 setting rates for bailiffs has been amended several times.

The consolidated version of the grand-ducal regulation can be consulted on the LEGILUX website:

<https://legilux.public.lu/eli/etat/leg/rgd/1991/01/24/n2/consolide/20211002>

The consolidated version was updated on 2 October 2021. Article 16 of the amended grand-ducal regulation of 24 January 1991 was amended by the grand-ducal regulation of 21 June 2023.

<https://legilux.public.lu/eli/etat/leg/rgd/2023/06/21/a356/jo>

The consolidated version was updated on 2 October 2021.

The aforementioned grand-ducal regulation sets out the fees charged by bailiffs. These include the basic rate

(Articles 2-5), travel expenses (Articles 6 and 7), other duties such as the collection charge or advance charge (Articles 8 to 11), expenses actually incurred (Articles 12 and 13) and increases in fixed and hourly rates (Article 15).

The average cost of serving a document is EUR 120-180 per addressee, including all taxes, unless service involves serious difficulties or the document is very large.

A single fixed fee of EUR 165 is charged for the service of judicial and extrajudicial documents in civil or commercial matters, on the basis of Regulation (EU) No 2020/1784 of the European Parliament and of the Council of 25 November 2020 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (service of documents) (recast) (Article 16 of the grand-ducal regulation of 24 January 1991).

Lawyers' expenses:

The provisions of the amended grand-ducal regulation of 21 March 1974 on the fees and remuneration payable to solicitors and lawyers apply.

The relevant provisions are available on the LEGILUX website:

[Grand-ducal regulation of 21 March 1974 on the fees and remuneration payable to solicitors and lawyers - Legilux \(public.lu\)](#)

As regards the allowances to be paid to experts, witnesses, interpreters and specialists:

the provisions of the grand-ducal regulation on court fees of 28 November 2009 (*règlement grand-ducal du 28 novembre 2009 portant fixation des indemnités et tarifs en cas de réquisition de justice*) are applicable and can be consulted on the LEGILUX website:

- [Grand-ducal regulation on court fees of 28 November 2009 - Legilux \(public.lu\)](#)

This regulation was amended by the grand-ducal regulation of 30 December 2011:

- [Grand-ducal regulation of 30 December 2011 amending: \(1\) the grand-ducal regulation on court fees of 28 November 2009; and \(2\) the amended grand-ducal regulation of 18 September 1995 on legal aid \(*Règlement grand-ducal du 30 décembre 2011 modifiant : 1\) le règlement grand-ducal du 28 novembre 2009 portant fixation des indemnités et tarifs en cas de réquisition de justice; 2\) le règlement grand-ducal modifié du 18 septembre 1995 concernant l'assistance judiciaire*\) - Legilux \(public.lu\)](#)

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

The languages accepted are French and German.

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