

Prima pagină>Introducerea unei acțiuni în justiție>Atlas Judiciar European în materie civilă>

Ordonanța asigurătorie europeană de indisponibilizare a conturilor bancare

European Account Preservation Order

Polonia

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

In proceedings for a European Account Preservation Order, the competent courts are the district court (*sąd rejonowy*) or regional court (*sąd okręgowy*) which would have jurisdiction to hear the case at first instance. If the competent court cannot be established, jurisdiction lies with the court in whose district the European Account Preservation Order is to be enforced or, where the competent court cannot be established on that basis or where the European Account Preservation Order is to be enforced in the districts of different courts, the competent court is the district court in Warsaw.

Names and contact details of the courts:

<https://www.gov.pl/web/sprawiedliwosc/znajdz-wybrany-sad-powszechny>

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

Minister for Justice, Department of International Cooperation and Human Rights

Al. Ujazdowskie 11, 00-950 Warsaw, Poland

Tel.: +48 22 2390870; Fax: + 48 22 6280949; Email: dwmipc@ms.gov.pl

Note: A request for the obtaining of account information must be made in writing and sent by post to the above address. Proof of payment of the fee must be enclosed with the request for the obtaining of account information. A request for the obtaining of account information sent to the Minister for Justice under Article 14 of the Regulation must specify the following information concerning the debtor:

a) where the debtor is a natural person:

– first name(s) and surname (obligatory).

Optional elements to be provided include:

– the national personal identification number (PESEL) or, in the absence of a PESEL number, passport or identity card number and/or

– date of birth and address,

depending on which of the above optional item of information is available.

b) where the debtor is a legal person or other organisational entity (not a legal person but with legal capacity): the full name (obligatory), the National Court Register (KRS) number or Tax Identification Number (NIP) or National Economic Register (REGON) number or, failing that, a number from another relevant register in which the body is entered and its registered office.

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

The Minister for Justice, as the competent authority, obtains information on bank accounts from a central register of accounts which, at the Minister's request, gathers such information from all banks operating in Poland and aggregates it for the Minister.

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

Regional courts (*sądy okręgowe*) (through district courts (*sądy rejonowe*)) – in cases of European Account Preservation Orders issued by district courts, and courts of appeal (through regional courts) – in cases of European Account Preservation Orders issued by regional courts.

Names and contact details of the courts:

<https://www.gov.pl/web/sprawiedliwosc/znajdz-wybrany-sad-powszechny>

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

Bailiffs (*Komornicy sądowi*)¹.

List and contact details of bailiffs:

<https://www.gov.pl/web/sprawiedliwosc/znajdz-komornika-sadowego>

N.B.:

In principle, a European Account Preservation Order is enforced by the bailiff (*komornik sądowy*) with general jurisdiction over the debtor, which is generally the bailiff in whose jurisdiction the debtor's residence or registered office lies.

Creditors do, however, have the right to choose a bailiff themselves (creditors opting to do so must enclose with their application a written declaration that they are availing themselves of this right); in certain cases specifically provided for in the rules, a bailiff chosen by a creditor in this way may refuse to accept the request.

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

Bailiffs (*Komornicy sądowi*)^[1].

List and contact details of bailiffs:

<https://www.gov.pl/web/sprawiedliwosc/znajdz-komornika-sadowego>

[1] In principle, a European Account Preservation Order is enforced by the bailiff (*komornik sądowy*) with general jurisdiction over the debtor, which is generally the bailiff in whose jurisdiction the debtor's residence or registered office lies.

Creditors do, however, have the right to choose a bailiff themselves (creditors opting to do so must enclose with their application a written declaration that they are availing themselves of this right); in certain cases specifically provided for in the rules, a bailiff chosen by a creditor in this way may refuse to accept the request.

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

a) joint accounts

On the basis of a preservation order issued against the debtor it is possible to seize a debt from a joint account held for the debtor and third parties. As a rule, the scope of such seizure is determined by the agreement governing the operation of the account concluded by the account holders (including the

debtor) with the bank. If the agreement does not specify the share of each holder of a joint account or where the debtor does not submit the agreement to the bailiff within one week, it is assumed that the shares of the account holders are equal. After the debtor's share in a joint account has been determined, the remaining share is exempt from seizure.

b) nominee accounts

Funds in a nominee account (in which only funds entrusted to the account holder by a third party may be held – on the basis of a separate agreement) may not be seized on the basis of an order issued against a debtor who is the holder of the nominee account (as fiduciary). The seizure of a nominee account is not, however, precluded if the debtor is the person who has entrusted those funds to the nominee (as entrustor).

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

– funds of the debtor held in a bank account of up to 75% of the minimum wage in each calendar month in which the seizure is in effect are exempt from seizure, regardless of the source of those funds [1]

– all amounts held in the debtor's bank account coming from: maintenance; cash benefits paid in the event of ineffective enforcement of maintenance orders; family benefits; family allowances, care allowances, maternity allowances, allowances for children who have lost both their parents; carers' allowances; social assistance benefits; rehabilitation benefits; education benefits; benefits, allowances, funds for the maintenance of premises and other amounts granted under legislation on family support and the foster-care system [2], are exempt from seizure.

[1] The minimum wage is determined annually for the next year by regulation of the Council of Ministers. The average monthly wage in June 2023 was PLN 7 333.73.

[2] [Ustawa z dnia 9 czerwca 2011 r. o wspieraniu rodziny i systemie pieczy zastępczej](#)

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

A bank may charge fees for the preparation, drawing up and transmission of information covered by banking secrecy authorised by law to persons, bodies and institutions, and for performing other operations (not expressly referred to in the Act).

Such fees may therefore constitute part of the costs of the preservation procedure carried out on the basis of the national preservation order (costs of the procedure are all costs arising in connection with that procedure, including the costs of the debt collector involved in enforcing the preservation order).

Accordingly, a bailiff may request an advance on the above fee from the party who requested enforcement – in this case, the creditor, making enforcement conditional on its payment.

The bailiff issues an order only in respect of the amount of the costs of the preservation procedure and submits them to the court.

The court decides of its own motion which party is ultimately to bear the costs of the preservation procedure in the decision which closes the proceedings in the main action. However, the costs of the preservation procedure arising later are decided, at the request of the party, by the court which granted the preservation order. If the decision granting the preservation order was issued before the commencement of the proceedings in the main action, and the creditor has not complied with the time-limit fixed for their commencement, the debtor may, within two weeks of the expiry of that time-limit, apply for costs. In that period, the creditor may lodge such an application if he or she did not pursue the action because the debtor satisfied the claim.

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

a) a PLN 50 fee for the request for the obtaining of account information sent to the Minister for Justice under Article 14 of the Regulation.

Note: The fee is payable by transfer to the current account of the Ministry of Justice.

Account No (NRB): Narodowy Bank Polski O/O Warsaw 77 1010 1010 0400 1922 3100 0000.

Details of the above account necessary for transfers from abroad:

IBAN: PL 77 1010 1010 0400 1922 3100 0000.

BIC: NBPL PLPW.

Proof of payment of the fee must be enclosed with the request for the obtaining of account information. The Minister for Justice will take action to obtain the information only after this fee has been paid.

b) an execution fee (for the bailiff) for enforcing a European Account Preservation Order of 2% of the value of the claim to be preserved. This fee may not be less than 3% of the average monthly wage [1] or more than five times that wage.

N.B.: The fee is paid when submitting an application for enforcement of a European Account Preservation Order; if the creditor does not pay it at the time of the request, the bailiff summons the creditor to pay it within seven days. The bailiff will not enforce the European Account Preservation Order until the fee has been paid. Failure by a creditor to pay the fee within seven days of being served with the bailiff's summons to do so will cause the application to be returned without enforcement.

[1] The average monthly wage (in the corporate sector) for a given month is published by the Chairman of Statistics Poland in a notice the following month. The average monthly wage in June 2023 was PLN 7 333.73.

<https://stat.gov.pl/sygnalne/komunikaty-i-obwieszczenia/lista-komunikatow-i-obwieszczen/obwieszczenie-w-sprawie-przecietnego-miesiecznego-wynagrodzenia-w-sektorze-przedsiębiorstw-bez-wyplat-nagrod-z-zysku-w-pierwszym-kwartale-2023-roku,59,38.html>

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

The seizure of a bank account on the basis of a national preservation order does not preclude another seizure of the same account on the basis of a subsequent national preservation order. The order of seizure on the basis of national preservation orders has no bearing on future enforcement.

Nor does the seizure of a bank account on the basis of a national preservation order preclude subsequent seizure of the same account on the basis of an enforceable title or enforcement from that account on the basis of that title. In the event that such enforcement commences and the amount held in the account does not fully satisfy the claims covered by the enforceable title and the national preservation order, the creditor who has the national preservation order may participate in the distribution of the amount obtained from the enforcement. The amount attributable to such creditor from the distribution is placed in a special deposit account, from which they can be paid upon presentation of the relevant enforceable title.

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

Jurisdiction lies with the district court (*sąd rejonowy*) or regional court (*sąd okręgowy*) which would have jurisdiction to hear the case at first instance. If the competent court cannot be established, jurisdiction lies with the court in whose district the European Account Preservation Order is to be enforced or, where the competent court cannot be established on that basis or where the European Account Preservation Order is to be enforced in the districts of different courts, the competent court is the district court in Warsaw.

Names and contact details of the courts:

<https://www.gov.pl/web/sprawiedliwosc/znajdz-wybrany-sad-powszechny>

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

Regional courts (*sądy okręgowe*) (through district courts (*sądy rejonowe*) against whose decision an appeal under Article 34 has been lodged and which are competent to issue a preservation order). Courts of appeal (through regional courts against whose decision an appeal under Article 34 has been lodged and which are competent to issue a preservation order).

Names and contact details of the courts:

<https://www.gov.pl/web/sprawiedliwosc/znajdz-wybrany-sad-powszechny>

An appeal (*zażalenie*) may be brought within seven days of service of an order issued as a result of the examination of an application submitted under Article 33, Article 34 or Article 35 of the Regulation [1].

[1] If – although this very rarely happens – an order was issued at a hearing and a party failed to request service of the order within the prescribed time-limit (seven days after the order is issued), the seven-day time-limit for lodging an appeal is counted from the day on which the order is issued.

Article 50(1)(n) – Court fees

A court fee of PLN 100 is payable for submitting, amending or withdrawing a European Account Preservation Order.

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

No language other than Polish is provided for.

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