



PRESS RELEASE

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The EU Regulation establishing European Account Preservation Order (EAPO) is now in Force

The main provisions of the EU Regulation **655/2014** which came into force on 17 July 2014 apply from 18 January 2017.

This EU Regulation establishes a European Account Preservation Order (EAPO) procedure to facilitate cross-border debt recovery in civil and commercial matters.

This Regulation creates a mechanism that applies to cross-border cases only. Hence, it only applies where the relevant bank account is held in a different EU Member State to where the EAPO application is made or the creditor is domiciled.

The EAPO procedure allows for a single order to be made in the courts of one Member State which would be capable of **'freezing'** any bank account of a debtor in any other Member State. It thus makes it less cumbersome, lengthy and costly for a creditor to obtain provisional measures to preserve assets in bank accounts of their debtor/s located in another EU Member State.

When an EAPO is successfully obtained, it will prevent the transfer or withdrawal of a debtor's assets from a bank account located within the EU and therefore allows a claimant to prevent the dissipation of assets.

An EAPO will be available to claimants both pre-judgment and post-judgment. Applications will generally be made without notice and on paper to a participating Member State court.

“This would have a ‘surprise effect’ which is essential for the effectiveness of the order– if the debtor is warned that the creditor wants to freeze his accounts, chances are that the money will have gone elsewhere by the time the order is issued and implemented.”

Nonetheless, safeguards have been introduced, including a requirement for the creditor to provide security in certain circumstances, and a provision that the creditor shall be liable for damage caused to the debtor by the EAPO where the creditor is at fault.

Banks (*holding defendants’ accounts*) should by now be compliant with this Regulation which may imply significant administrative burdens.

The UK and Denmark have opted out of this Regulation and this means that the procedure will not be available for bank accounts held in these Member States nor to creditors domiciled in these Member States.