

Template for the EFFORTS Practice Guide for the European Account Preservation Order (Reg. (EU) No 655/2014)

I.	OUTGOING	2
A.	SUBJECT MATTER AND SCOPE	3
1.	<i>Alternative preservation measures under national law</i>	3
B.	PROCEDURE FOR OBTAINING A PRESERVATION ORDER AND FOR THE OBTAINING OF ACCOUNT INFORMATION	4
1.	<i>Where the creditor has already obtained an enforceable title</i>	4
2.	<i>Jurisdiction</i>	7
3.	<i>Competent court</i>	7
4.	<i>Application for a Preservation Order</i>	8
5.	<i>Procedure for issuing a Preservation Order</i>	9
6.	<i>Initiation of proceedings on the substance of the matter</i>	12
7.	<i>Appeal against the refusal to issue the Preservation Order</i>	13
8.	<i>Request for the obtaining of account information</i>	14
C.	MEANS OF COMMUNICATION: SERVICE AND TRANSMISSION OF DOCUMENTS	14
1.	<i>Service on the debtor</i>	14
2.	<i>Transmission of documents</i>	15
D.	REMEDIES	18
1.	<i>Revocation or termination of the Preservation Order for lack of initiation of proceedings</i>	18
2.	<i>Revocation or modification of the Preservation Order</i>	18
3.	<i>Review of the decision concerning security</i>	20
4.	<i>Right to provide security in lieu of preservation</i>	20
5.	<i>Rights of third parties</i>	21
II.	INCOMING	22
A.	ENFORCEMENT OF THE PRESERVATION ORDER.....	22
1.	<i>Procedure for the enforcement and for the implementation of the Preservation Order</i>	22
2.	<i>Limitations on the preservation</i>	24
3.	<i>Ranking of the Preservation Order</i>	30
4.	<i>Costs incurred by the banks</i>	30
B.	MEANS OF COMMUNICATION: SERVICE AND TRANSMISSION OF DOCUMENTS	31
1.	<i>Service on the debtor</i>	31
2.	<i>Transmission of documents</i>	32
C.	REMEDIES	34
1.	<i>Revocation or termination of the Preservation Order for lack of initiation of proceedings</i>	34
2.	<i>Over-preservation of funds</i>	35
3.	<i>Limitation or termination of the enforcement of the Preservation Order</i>	36
4.	<i>Adjustment to the exemption of amounts</i>	37
5.	<i>Right to provide security in lieu of preservation</i>	37

6. *Rights of third parties* 38

- The template is built upon the deliverables of the EFFORTS Project and the Commission Practice Guides.
- Attached to the EFFORTS Practice guides, there will be an annex addressing general rules of enforcement of titles at a national level, for all the Regulations
- Please provide an answer to all the questions in underlined text: it is preferable to have a limited or doubtful answer than to have none
- Please provide an answer as complete as possible, imagining that the end-user (a qualified party, such as a foreign lawyer) needs as much and as clear information as possible
- **Please consider that some of the answers may partially overlap: bearing in mind the best interest of the end-user, please do not dismiss the overlapping issues but pursue a good balance between repetitions and clarity**
- In your answers, please provide the normative context as well as a brief explanation of the matters
- When you compile the EFFORTS PG, the reference [BE, DE, FR, HR, IT, LT, LU] should be intended as to be completed as the same for the entire document; i.e. the compilers from Italy will chose "IT" and write "Italy" in place of each of the square brackets of the document.

Disclaimer. *This Practice guide is the result of a scientific research project elaborated for educational and general information purposes. It has not been tested in legal practice, and is neither intended to provide specific legal advice nor as a substitute for competent legal advice from a licensed attorney. The views, information, or opinions expressed herein are those of the authors and do not reflect the official opinion or position of the European Commission. The authors and the European Commission do not guarantee the accuracy, relevance, timeliness, completeness or the results from the use of the information herein. Any action taken upon the information in this document is strictly at the user's own risk. Both the Commission and the authors of this document disclaim any responsibility and/or liability for any use of the contents in legal practice.*

I. Outgoing

When LT is the Member State of origin

A. Subject matter, scope and main features

1. **Alternative preservation measures under national law**

The European Account Preservation Order (EAPO) shall be available to the creditor as an alternative to preservation measures under national law, but does not replace them (Art. 1(2) EAPO Reg.).

Given that:

- The EAPO lets a court in one EU country freeze funds in the bank account of a debtor in another EU country;
- It applies to financial claims in civil and commercial matters, excluding the following matters (Art. 2 EAPO Reg.):
 - o revenue, customs or administrative matters and social security;
 - o rights in property arising out of marriage or equivalent relationship, and wills and succession;
 - o claims against a debtor who is the object of bankruptcy or insolvency proceedings, judicial arrangements, compositions or other similar proceedings.;
- The procedure may be used in cross-border cases only, whereby the court carrying out the procedure or the country of domicile of the creditor must be in a different Member State than the one in which the debtor's account is maintained (European Judicial Atlas, Art. 2 EAPO Reg.).;
- The preservation of funds held in the debtor's account should prevent the risk that, without such a measure, the subsequent enforcement of a claim against the debtor will be impeded or made substantially more difficult (Whereas 7).;
- The EAPO shall be available to the creditor: (i) before s/he initiates proceedings against the debtor on the substance of the matter; (ii) at any stage during such proceedings; or (iii) after s/he has obtained in a Member State an enforceable title.;
- Because the EAPO procedure is ex parte, debtors will not be informed of creditors' applications, or be notified prior to the issue of the EAPO or its implementation.

Which are the measures in LT, alternative to the PO, for the preservation of funds held in the debtor's account?

Please briefly describe the scope of such measures, the procedure to obtain and enforce them and the conditions for their issuance by the competent court and/or any other issue you may find relevant, particularly in order to highlight the main differences between national preservation measures and the EAPO.

A party may request the attachment of assets, including those in bank accounts, as one of the provisional protective measures. The party requesting provisional protective measures shall prove the preliminary merits (*prima facie*) of the claim and provide substantiation that the failure to apply provisional protective measures would jeopardise the enforcement of the judgment. The provisional protective measures sought shall be capable of securing the enforcement of the judgment and shall not resolve the dispute on the merits. Provisional protective measures may be applied not only in cross-border proceedings; they can be applied both after and before the submission of the claim, as well as at any stage of the proceedings.

B. Procedure for obtaining a European Account Preservation Order and for the obtaining of account information

Obtaining a Preservation Order

The EAPO shall be available to the creditor:

- i. before s/he initiates proceedings against the debtor on the substance of the matter (Art. 5(a) EAPO Reg.);
- ii. at any stage during such proceedings (Art. 5(a) EAPO Reg.); or
- iii. after s/he has obtained in a Member State a judgment, court settlement or authentic instrument which requires the debtor to pay the creditor's claim (Art. 5(b) EAPO Reg.).

1. Notion of enforceable title, and procedure to obtain a copy of it which satisfies the conditions necessary to establish its authenticity

The conditions for issuing the EAPO vary depending on the moment in which the application is lodged, making it easier for the creditor to obtain one where s/he has already obtained a judgment, court settlement or authentic instrument which requires the debtor to pay the creditor's claim (Art. 5(b) EAPO Reg.), that is, as clarified by the Court of Justice in Case C-555/18, *K.H.K. v B.A.C., E.E.K* (1), an "enforceable title".

¹ Relevance is given to the following passage of the decision: "As the Advocate General observed in points 68 and 69 of his Opinion, an interpretation of Article 4(8) to (10) of Regulation No 655/2014 to the effect that an instrument obtained by a creditor *which is not enforceable* in the Member State of origin constitutes a 'judgment', 'court settlement' or 'authentic instrument' within the meaning of that provision would be liable to undermine the balance referred to in the previous paragraph. (...) In the light of the foregoing, the answer to the first question is that Article 4(10) of Regulation No 655/2014 must be interpreted as meaning that an order for payment, such as that at issue in the main proceedings, which is not enforceable, does not constitute an 'authentic instrument' within the meaning of that provision.", §§41-45.

In such cases (the creditor has already obtained an enforceable title), the application shall be accompanied by all relevant supporting documents and, where the creditor has already obtained a judgment, court settlement or authentic instrument, by a copy of the judgment, court settlement or authentic instrument which satisfies the conditions necessary to establish its authenticity (Art. 8(3) EAPO Reg.).

Which titles, that are deemed to be enforceable according to domestic law, may be relevant to the purposes of Art. 5 (b) EAPO Reg.?

Which is the procedure to obtain a copy of the judgment, court settlement or authentic instrument which satisfies the conditions necessary to establish its authenticity?

Please, consider:

The notion of enforceable title in LT has already been addressed in the BI bis Reg. EFFORTS PG, under §§(I)(A)(2 ter) and (I)(B)(1 bis) (²).

The procedure to obtain a copy of the judgment, court settlement or authentic instrument which satisfies the conditions necessary to establish its authenticity in LT has already been addressed in the BI bis Reg. EFFORTS PG, under §§(I)(A)(1) and (I)(B)(1) (³).

Under Article 587 of the Code of Civil Procedure of the Republic of Lithuania, enforcement instruments include:

- court judgments and arbitration awards, rulings, decisions and orders in civil proceedings, as well as in proceedings relating to administrative legal relations;
- court judgments, rulings and decisions in criminal proceedings to the extent they relate to the recovery of pecuniary nature, the enforcement of penalties for the restriction of activities of a legal entity and liquidation of a entity;
- court decisions in administrative proceedings to the extent they relate to the recovery of pecuniary nature;
- amicable settlements approved by the court;
- judgments of foreign courts and arbitral tribunals in the cases specified by international treaties and laws.
- decisions of authorities and officials in administrative offence cases to the extent they relate to the recovery of pecuniary nature;
- prosecutor's sanctions for the eviction of natural persons from residential premises and other prosecutor's decisions to the extent they relate to the recovery of pecuniary nature;
- enforcement records made by notaries on the basis of negotiable or non-negotiable promissory notes or cheques and notarial enforcement orders for the drawing up of an inventory of hereditaments (additions to the inventory of

² Both authentic instruments and court settlements.

³ Both authentic instruments and court settlements.

- hereditaments);
- decisions of the Labour Disputes Commission;
- other decisions by authorities and officials, the enforcement of which under the civil procedure is determined by laws.

Enforcement instruments may be issued in respect of judgments within five years from the date on which the judgment becomes final. The time limit to submit enforcement orders for enforcement under judgments that must be enforced urgently shall be calculated from the first day after the judgment has been rendered. Enforcement instruments for reinstatement to work may be submitted within one month after the date of the judgment. Where periodic payments shall be recovered under a judgment, the period of validity of the enforcement instruments shall be the period for which the payments have been awarded and the time limit of five years shall begin to run from the date on which each payment is due.

Under Lithuanian legislation, a copy of the judgment with an indication that it is final and the certificate referred to in the Regulation shall be issued by the court that heard the case. No additional stamp duty shall be charged for this.

In Lithuania, court settlements are approved by court rulings. The operative (final) parts of such rulings (similarly to the operative parts of other procedural judicial documents) detail the enforceable terms of the settlement agreements approved by the court. Final rulings regarding the approval of settlement agreements shall acquire the force of a final judgment under Lithuanian law and other final court decisions shall be enforced.

Electronic enforcement instruments in the ADOC format recognised by the Information System of Judicial Officers of Lithuania for the recovery of pecuniary amounts shall be submitted through the Information System of Judicial Officers. In other cases when enforcement instruments do not comply with the format recognised by the Information System of Judicial Officers and are in writing or in another digital format not recognised by the system, such instruments for the recovery of pecuniary amounts shall be submitted to the Chamber of Judicial Officers of Lithuania. Such enforcement instruments shall be digitised at the Chamber of Judicial Officers of Lithuania, signed with an electronic signature by an employee of the Chamber of Judicial Officers of Lithuania, uploaded to the Information System of Judicial Officers and further enforced as electronic enforcement instruments. Enforcement instruments for the recovery of pecuniary amounts are distributed to judicial officers by the Information System of Judicial Officers.

2. Jurisdiction to issue the EAPO *ante causam* or pending proceedings on the substance

Where the creditor has not yet obtained a judgment, court settlement or authentic instrument, jurisdiction to issue a Preservation Order shall lie with the courts of the Member State which have jurisdiction to rule on the substance of the matter in accordance with the relevant rules of jurisdiction applicable (Art. 6(1) EAPO Reg.). Often such rules will be those set out in EU Regulations, thus domestic ones apply residually. Which are the relevant domestic rules of jurisdiction that may be relevant LT?

Please provide a general outline of national rules on jurisdiction that may become relevant for the purposes of Art. 6(1) EAPO Reg.

An application for the European Account Preservation Order shall be submitted in the cases referred to in Article 6, paragraphs 1 and 2 of Regulation (EU) No 655/2014 to the first instance court which has jurisdiction to rule on the merits of this dispute.

In the case referred to in Article 6(2) of Regulation (EU) No 655/2014 when the case on the merits of the dispute is outside the jurisdiction of a court of the Republic of Lithuania, an application for the European Account Preservation Order shall be submitted to the district court of the place of domicile of the consumer.

3. Internal competence

Within the jurisdiction of the Member State as defined by Art. 6 EAPO Reg., *i.e.*:

- i. Ante causam > the Member State which have jurisdiction to rule on the substance of the matter
- ii. Pending proceedings on the substance > the Member State which have jurisdiction to rule on the substance of the matter
- iii. Where the creditor has already obtained a judgment or court settlement > the Member State in which the judgment was issued or the court settlement was approved or concluded
- iv. Where the creditor has already obtained an authentic instrument > the Member State in which that instrument was drawn up,

the internal competence shall be located according to national rules; such rules form part of the information to be provided by Member States under Art. 50 EAPO Reg.

Considering that LT has jurisdiction to issue the EAPO, what do the relevant domestic rules in LT provide as to the internal competence ?

Please deal specifically with each of the cases (i), (ii) (iii) and (iv) above.

(i) An application for the European Account Preservation Order shall be submitted in the cases referred to in Article 6, paragraphs 1 and 2 of Regulation (EU) No 655/2014 to the first instance court which has jurisdiction to rule on the merits of this dispute.

In the case referred to in Article 6(2) of Regulation (EU) No 655/2014 when the case on the merits of the dispute is outside the jurisdiction of a court of the Republic of Lithuania, an application for the European Account Preservation Order shall be submitted to the district court of the place of domicile of the consumer.

(ii) In the case referred to in Article 6(3) of Regulation (EU) No 655/2014, an application for the European Account Preservation Order shall be submitted to the first instance court which has ruled on the case on the merits or approved the court settlement. These rules shall apply also in the cases when the case on the merits is pending or has already been disposed at the court of appeal instance or at the court of cassation.

(iii) An application for the European Account Preservation Order shall be submitted to the first instance court which has ruled on the case on the merits or approved the court settlement. These rules shall apply also in the cases when the case on the merits is pending or had already been disposed at the court of appeal instance or at the court of cassation.

(iv) In the case referred to in Article 6(4) of Regulation (EU) No 655/2014, an application for the European Account Preservation Order shall be submitted to the district court of the location of the authority which has issued the authentic instrument.

4. Application for a Preservation Order

- i. **Lodging.** The application and supporting documents may be submitted by any means of communication, including electronic, which are accepted under the procedural rules of the Member State in which the application is lodged (Art. 8(4) EAPO Reg.). Which are the means of communication accepted under the procedural rules of LT for the submission of the application for a EAPO?

Procedural documents may be submitted (i) by delivering them to the document reception unit of the court; (ii) by sending them by post; (iii) by submitting through the

E-Service Portal of Lithuanian Courts (www.e.teismas.lt). Where documents are submitted electronically, a scanned or separate electronic signature is not required on them because the electronic signature is generated by the system to which the person must log in by one of the methods ensuring reliable authentication of the logged-in person. Where documents are submitted by post or at the court, the number of copies to be submitted to the court shall be equivalent to the number of parties involved in the proceedings, plus one additional copy for the court. Documents shall be submitted in the official Lithuanian language and if a document is in the language other than the official language, it shall be accompanied by a certified translation into the Lithuanian language by a translator. Documents shall be submitted via the E-Service Portal of Lithuanian Courts, sent by post or delivered to the court no later than 24:00 on the last day of the time limit. The same rules shall apply to evidence (annexes). The court shall serve documents by post or through the judicial system. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts, insolvency administrators by means of electronic communications (via the e-system).

- ii. **Court fees.** The court fees in proceedings to obtain a EAPO shall not be higher than the fees for obtaining an equivalent national order or a remedy against such a national order (Art. 42 EAPO Reg.). Which are the domestic rules on court fees and/or other applicable costs for obtaining an EAPO in LT?

When submitting an application for the European Account Preservation Order, as well as when applying the remedies at court as referred to in Chapter 4 of Regulation (EU) No 655/2014, the stamp duty shall be paid, which shall be equal to the stamp duty payable for applications for provisional protective measures or, respectively, for separate appeals against the rulings on provisional protective measures.

5. Procedure for issuing a Preservation Order

- i. **Hearing of the creditor.** Where the court determines that, provided that this does not delay the proceedings unduly, an oral hearing of the creditor and, as the case may be, her/his witness(es) is necessary, the court shall hold the hearing without delay, also using videoconference or other communication technology, and shall issue its decision by the end of the fifth working day after the hearing has taken place (cf. Arts. 9(2) and 18(3))

EAPO Reg.). Which are the relevant domestic rules or practices as to the methods and the timeline to hold a hearing under Arts. 9(2) and 18(3) EAPO Reg.? How has the provision of online hearings been implemented in LT?

Participation of the parties in hearings and witness examination at their physical location may be ensured by means of information and electronic communication technologies (video-conferencing, teleconferencing, etc.). The use of these technologies, in accordance with the procedure laid down by the Minister of Justice, shall ensure reliable identification of the parties in the proceedings and the objective recording and presentation of data (evidence).

During the COVID-19 pandemic, Lithuanian courts acquired professional ZOOM licences and started to systematically hold remote oral hearings using this software. Since the end of the lockdown, the courts have continued to hold remote hearings using the ZOOM platform rather often – they are effective not only in cases where a party is unable to attend a hearing, but also when the court decides that conducting oral hearings in this way would be more efficient, cost-effective and would not be detrimental to the proper and fair hearing of the case.

ii. Taking of evidence. The court shall take its decision by means of a written procedure on the basis of the information and evidence provided by the creditor in or with her/his application. If the court considers that the evidence provided is insufficient, it may, where national law so allows, request the creditor to provide additional documentary evidence (Art. 9(1) EAPO Reg.). Does national law allow the creditor to provide additional documentary evidence? If so, which are the means of evidence available to the creditor and the applicable procedure to collect them?

The court may, provided that this does not delay the proceedings unduly, also use any other appropriate method of taking evidence available under its national law (cf. Art. 9(2) EAPO Reg.). Which are the other methods of taking evidence available to the court under national law in LT? How does such taking of evidence occur and which is the applicable procedure?

The court may accept documentary evidence, but only that which confirms or disproves the circumstances relevant to the case. Written evidence means documents, business and personal correspondence, other letters where there are data about the circumstances relevant to the case. Written evidence are classified into official and non-official. The court has the right to refuse to accept evidence if such evidence could have been submitted earlier and its later submission would

delay the proceedings; the refusal to accept evidence must be reasoned.

If a party does not have specific evidence, he/she may apply to the court for the recovery of evidence. However, in such a case, the party must indicate not only what evidence is requested and why he/she considers that the evidence is in the possession of the person concerned and the circumstances which such evidence can prove, but also state the fact that he/she has tried to obtain this specific evidence but has not obtained it and/or is unable to obtain it. The court may order the production of an item of evidence (order the person to produce the item of evidence) or it may issue a certificate to the person requesting the production of written evidence confirming the party's right to obtain that item of evidence in order to present it to the court in a particular case.

- iii. Security to be provided by the creditor.** If the court requires security to be provided pursuant to Art. 12 EAPO Reg., it shall inform the creditor of the amount required and of the forms of security acceptable under the law of the Member State in which the court is located. It shall indicate to the creditor that it will issue the PO once security in accordance with those requirements has been provided (Art. 12(3) EAPO Reg.). Which are the forms of security acceptable under the law of LT? How does the creditor provide such security and how is the court informed on this? Is the creditor allowed to appeal the decision of the court requesting her/him to provide such security?

Lithuanian law does not provide for separate rules to secure the compensation of damages in the case of an EAPO. Therefore, the general provisions of the Code of Civil Procedure governing the securing of the compensation of damages should apply in such a case.

Lithuanian law does not provide for separate rules to secure the compensation of damages in the case of an EAPO. Therefore, the general provisions of the Code of Civil Procedure governing the securing of the compensation of damages should apply in such a case. At the request of a party, the court may order, by its ruling, the claimant or any other person who has submitted an application for provisional protective measures to provide, within the time limit fixed by the court, a security for the defendant's damages which may result from the application of the provisional protective measures. The compensation of such damages may also be secured by a bank guarantee. If the claimant fails to pay the money intended to secure the damages or to provide a bank guarantee within the set time limit, the court shall, within three working days of the expiry of the time limit, revoke the provisional

protective measures imposed. The ruling shall not be subject to appeal by a separate appeal. After the court's decision whereby a claim has been dismissed becomes enforceable, the defendant shall have the right to claim from the claimant compensation of the damages suffered by the defendant as a result of the provisional protective measures imposed at the claimant's request. If the defendant does not submit a claim for the compensation of damages within fourteen days after the day the judgment on the merits of the dispute becomes final, the measures imposed to secure the compensation of damages shall be revoked. The revocation of the measures to secure the compensation for damages shall not preclude the defendant from submitting a claim for damages under the general procedure. The rules for securing the compensation of damages laid down in this Article may also be applied in cases where provisional protective measures are requested before the day of submission of a claim to the court.

iv. Communication of the decision. The decision on the application shall be brought to the notice of the creditor in accordance with the procedure provided for by the law of the Member State of origin for equivalent national orders (Art. 17(5) EAPO Reg.). How is the decision on the application brought to the notice of the creditor in LT?

The court shall serve documents by post or through the Judicial Information System LITEKO. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts, insolvency administrators by means of electronic communications (via the e-system LITEKO).

6. Initiation of proceedings on the substance of the matter

Where the creditor has applied for a EAPO before initiating proceedings on the substance of the matter, s/he shall initiate such proceedings and provide proof of such initiation to the court with which the application for the Preservation Order was lodged within 30 days of the date on which he lodged the application or within 14 days of the date of the issue of the Order, whichever date is the later (Art. 10(1) EAPO Reg.; see also Art. 10(3) for the definition of the initiation of proceedings). In LT, are civil proceedings on the substance of the matter initiated with the lodging of the document to the court or with prior service to the debtor? When the document instituting the proceedings or an equivalent document is lodged with the court, which are the subsequent steps that the creditor is required to take to have service effected on the

debtor under national law in LT? On the contrary, when the document has to be served before being lodged with the court, which are the steps that the creditor is required to take to have the document lodged with the court under national law in LT?

Yes, civil proceedings shall be initiated by the creditor lodging a claim to the court. After the claim has been lodged, the court usually organises the service of documents on the debtor. The court may allow the claimant to serve documents on the defendant when the claimant himself/herself so requests, provided that a certificate of proper service on the defendant is submitted to the court. The latter alternative of service is very rarely used in practice.

7. Appeal against the refusal to issue the Preservation Order

- i. **Appeal.** The creditor shall have the right to appeal against any decision of the court rejecting, wholly or in part, her/his application for a PO. Such an appeal shall be lodged within 30 days of the date on which the decision was brought to the notice of the creditor. It shall be lodged with the court which the Member State concerned has communicated to the Commission. Where the application for the PO was rejected in whole, the appeal shall be dealt with in *ex parte* proceedings as provided for in Article 11 (Art. 21 EAPO Reg.). How does the court issue a decision rejecting the application of the creditor? Which is the court competent to receive the appeal under Art. 21 EAPO Reg.? Which is the applicable procedure? How is the *ex parte* nature of the proceedings implemented?

A separate appeal may be submitted in the case referred to Article 21(1) of Regulation (EU) No 655/2014. A separate appeal shall be submitted through the court which rendered the ruling under appeal and shall be heard by the court of appeal instance.

- ii. **New application.** The right to appeal against a refusal to issue the EAPO should be without prejudice to the possibility for the creditor to make a new application for a EAPO on the basis of new facts or new evidence (Whereas 22). How could the creditor make a new application for a EAPO on the basis of new facts or new evidence in LT

A new application shall be submitted under the same procedure as the original

application.

Obtaining account information

8. Request for the obtaining of account information

In the application for the EAPO, the creditor may request that the information authority of the Member State of enforcement obtain the information necessary to allow the bank or banks and the debtor's account or accounts to be identified. The conditions for the creditor's request are detailed under Art. 14 EAPO Reg. Please mention any issue relating specifically to the request for the obtaining of account information that you may find relevant under your national law.

If a person does not have specific evidence, he/she may apply to the court for the recovery of evidence. However, in such a case, the person shall indicate not only what information is requested and why he/she considers that it is in the possession of the person concerned and the circumstances which he/she can prove, but also state the fact that he/she has tried to obtain such information but has not obtained it and/or is unable to obtain it. The court may request the information (order the person to provide such information) or it may issue a certificate to the person who requests such information to confirm the party's right to obtain that item of evidence in order to present it to the court in a particular case.

C. Means of communication: service and transmission of documents

1. Service on the debtor

When LT is the Member State of origin and the debtor is domiciled in that Member State, service shall be effected in accordance with the law of that same Member State (cf. Art. 28(2) EAPO Reg.). Also, when LT is the Member State of origin and the debtor is domiciled in a third State, service shall be effected in accordance with the rules on international service applicable in the same Member State of origin (cf. Art. 28(2) and (4) EAPO Reg.). Please describe the rules applicable to service on the territory of the State and to international service under the law in LT.

In the case referred to in Article 28(3) of Regulation (EU) No 655/2014, when the residence (domicile) of the debtor is in the Republic of Lithuania and the Republic of Lithuania is not the EU Member State of enforcement, procedural documents shall

be served to the debtor under the following procedure:

Where cross-border service of documents is effected, the documents received from abroad shall be served under the procedure set out by the Code of Civil Procedure of the Republic of Lithuania and by the Minister of Justice of the Republic of Lithuania to the extent Regulation (EC) No 2020/1784, the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, and laws do not provide otherwise. The Chamber of Judicial Officers of Lithuania shall be the authority designated under Article 3(2) of Regulation (EC) No 2020/1784 as competent to receive requests for the service of documents from other Member States and shall organise and coordinate the service of documents and their transmission to judicial officers for enforcement.

Where the service of documents issued by national courts is effected, the court shall serve documents by post or through the judicial system. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts, insolvency administrators by means of electronic communications (via the e-system LITEKO).

Where the debtor is domiciled in a Member State other than LT, the issuing court or the creditor, depending on who is responsible for initiating service in that Member State, shall, by the end of the third working day following the day of receipt of the declaration showing that amounts have been preserved, transmit the EAPO and the accompanying documents in accordance with Art. 29 EAPO Reg. to the competent authority of the Member State in which the debtor is domiciled (cf. Art. 28(2) EAPO Reg.). Who is responsible for initiating service in LT? In case it is the creditor, how could s/he proceed for the transmission of documents under Art. 29 EAPO Reg.?
On transmission of documents under Art. 29 see also the following paragraph (I)(C)(2).

Normally the service of documents shall be organised by the court that hears the case.

2. Transmission of documents

- i. **Transmission.** Where the EAPO Reg. provides for transmission of documents in accordance with Art. 29(1), such transmission may be carried out by any appropriate means, provided that the content of the document received is true and faithful to that of the document transmitted and that all information contained in it is easily legible. Considering that LT is the Member State of

origin, which are the means of transmission of documents in LT available for the purposes of Art. 29(1) EAPO Reg.?

Please consider that such means should be used for the purposes of:

- . Art. 10(2) (revocation of the EAPO for lack of timely initiation of proceedings transmitted to the competent authority of the MS of enforcement);
- . 14(3) (request for information on the debtor's bank account sustained and transmitted to the competent authority of the Member State of enforcement);
- . 23(3) (part A of the EAPO plus the blank standard form for the bank's declaration transmitted to the competent authority of the Member State of enforcement);
- . 28(3) (transmission of the EAPO and the accompanying documents to the competent authority of the Member State in which the debtor is domiciled in order to perform service on the debtor);
- . 36(5) (revocation or modification of the EAPO transmitted to the competent authority in the Member State of enforcement). ⁽⁴⁾

In the case referred to in Article 28(3) of Regulation (EU) No 655/2014, when the residence (domicile) of the debtor is in the Republic of Lithuania and the Republic of Lithuania is not the EU Member State of enforcement, procedural documents shall be served to the debtor under the following procedure:

Where cross-border service of documents is effected, the documents received from abroad shall be served under the procedure set out by the Code of Civil Procedure of the Republic of Lithuania and by the Minister of Justice of the Republic of Lithuania to the extent Regulation (EC) No 2020/1784, the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, and laws do not provide otherwise. The Chamber of Judicial Officers of Lithuania shall be the authority designated under Article 3(2) of Regulation (EC) No 2020/1784 as competent to receive requests for the service of documents from other Member States and shall organise and coordinate the service of documents and their transmission to judicial officers for enforcement.

Where the service of documents issued by national courts is effected, the court shall serve documents by post or through the judicial system. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts,

⁴ Points in green refer to cases in which a private entity, such as the creditor or the bank, is or could be responsible for such transmission. In the other cases, it is an authority to be responsible for such transmission.

insolvency administrators by means of electronic communications (via the e-system). Documents and information may also be served by other technical equipment, such as fax and/or email.

- ii. **Receipt.** The court or authority that received documents in accordance with paragraph 1 of Art. 29 shall, by the end of the working day following the day of receipt, send to the authority, creditor or bank that transmitted the documents an acknowledgment of receipt, employing the swiftest possible means of transmission and using the standard forms (Art. 29(2) EAPO Reg.). Considering that LT is the Member State of the court or authority that shall send such an acknowledgment of receipt, which are the means of transmission of it available in LT?

Please consider that the issuing court receives documents under Art. 29(1) EAPO Reg. in the cases listed above under (I)(C)(2)(i).

In the case referred to in Article 28(3) of Regulation (EU) No 655/2014, when the residence (domicile) of the debtor is in the Republic of Lithuania and the Republic of Lithuania is not the EU Member State of enforcement, procedural documents shall be served to the debtor under the following procedure:

Where cross-border service of documents is effected, the documents received from abroad shall be served under the procedure set out by the Code of Civil Procedure of the Republic of Lithuania and by the Minister of Justice of the Republic of Lithuania to the extent Regulation (EC) No 2020/1784, the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, and laws do not provide otherwise. The Chamber of Judicial Officers of Lithuania shall be the authority designated under Article 3(2) of Regulation (EC) No 2020/1784 as competent to receive requests for the service of documents from other Member States and shall organise and coordinate the service of documents and their transmission to judicial officers for enforcement.

Where the service of documents issued by national courts is effected, the court shall serve documents by post or through the court system. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts, insolvency administrators by means of electronic communications (via the e-system LITEKO). Documents and information may also be served by other technical equipment, such as fax and/or email.

D. Remedies

1. **Revocation or termination of the Preservation Order for lack of initiation of proceedings**

If the court has not received proof of the initiation of proceedings within the time period referred to in paragraph 1 of Art. 10 EAPO Reg., the EAPO shall be revoked or shall terminate and the parties shall be informed accordingly (Art. 10(2) EAPO Reg.). How does the court proceed for the revocation or termination of the PO in LT? Is the creditor heard during such procedure? How are the parties informed of the revocation or termination?

On the procedure for the submission of the document proving initiation of the proceedings see §(I)(B)(6); on the procedure for the transmission of the revocation or termination of the PO to the competent authority of the MS of enforcement see §(I)(C)(2).

As there is no specific regulation set out in the case of EAPO, therefore, general regulation laid down in the Code of Civil Procedure should be applied by analogy. The court shall, on its own initiative, revoke provisional protective measures where the person who seeks provisional protective measures fails to lodge a claim within the time limit set by the court. This ruling shall not be subject to appeal by a separate appeal. The parties shall be informed in the usual way, either by post or via the e-system LITEKO.

2. **Revocation or modification of the Preservation Order**

- i. **Application of the debtor.** Upon application by the debtor to the competent court of the Member State of origin, the Preservation Order shall be revoked or, where applicable, modified on the grounds listed in Art. 33(1) EAPO Reg. Considering that LT is the Member State of origin, which is the procedure applicable for the request to revoke or modify the PO presented by the debtor? Which are the means of communication, including electronic means, accepted under the procedural rules of LT for the submission of the application (Art. 36(1))? How is the application brought to the notice of the other party (Art. 36(2))? Are both parties granted the right to present their case and which are the accepted means of communication technology (Art. 36(3))? Which is the timeline for the decision of the court and how is the decision brought to the attention of the other parties (Art. 36(4))? How do the parties appeal the decision (Art. 37)? Is legal representation mandatory (Art. 41)? Which are the applicable court fees (Art. 42)?

As there is not special regulation in the case of EAPO, the same rules as in the case of rulings for the revocation of provisional protective measures should apply by analogy. The request should be submitted to the court which issued the order in question in the same way as other procedural documents, either by delivery to the court's secretariat, by post or through the e-system. The court shall decide on the matter after hearing both parties and in accordance with the principles of adversarial proceedings and procedural equality. The proceedings should normally be conducted under the written procedure, however, the court may also hold an oral hearing. The ruling may be appealed against by a separate appeal, however, the procedural documents of this nature are not subject to appeal under the cassation procedure. Applications for revocation are exempt from a stamp duty, but the stamp duty of EUR 50 should be charged for the lodging of a separate appeal. Representation by a lawyer is not necessary in such a matter.

- ii. Court decision on its own motion.** The court that issued the EAPO may also, where the law of the Member State of origin so permits, of its own motion modify or revoke the Order due to changed circumstances (Art. 35(2) EAPO Reg.). Does the law inLT permit a court to revoke or modify the EAPO of its own motion? If so, which is the procedure applicable? Is the creditor granted the right to present her/his case?

This matter is not regulated in Lithuanian law.

- iii. Joint application.** The debtor or the creditor may apply to the court that issued the EAPO for a modification or a revocation of the Order on the ground that the circumstances on the basis of which the Order was issued have changed (Art. 35(1) EAPO Reg.). The debtor and the creditor may also, on the ground that they have agreed to settle the claim, apply jointly to the court that issued the EAPO for revocation or modification of the Order (Art. 35(3) EAPO Reg.). How do the parties apply for revocation or modification of the PO under Art. 35(1) and (3) in LT? How does the competent court decide on such matter? Is legal representation mandatory (Art. 41)? Which are the applicable court fees (Art. 42)?

The creditor and the debtor may submit a joint application for the revocation or modification of an order. Representation by a lawyer shall not be mandatory for such applications. Stamp duty shall not be payable. The court shall normally decide on the substance of the application under the written procedure after examining the

circumstances and evidence presented.

3. Review of the decision concerning security

Upon application by the debtor to the competent court of the Member State of origin, the decision concerning the security pursuant to Art. 12 EAPO Reg. (see §(I)(B)(5)(iii) above) shall be reviewed on the ground that the conditions or requirements of that Article were not met. The court may require the creditor to provide security or additional security, under penalty of revocation or modification of the EAPO (cf. Art. 33(2) EAPO Reg.).

Considering that LT is the Member State of origin, which is the applicable procedure for the request to review the decision concerning the security? Which are the means of communication, including electronic means, accepted under the procedural rules of LT for the submission of the application (Art. 36(1))? How is the application brought to the notice of the other party (Art. 36(2))? Are both parties granted the right to present their case and which are the accepted means of communication technology (Art. 36(3))? Which is the timeline for the decision of the court and how is the decision brought to the attention of the other parties (Art. 36(4))? How do the parties appeal the decision (Art. 37)? Is legal representation mandatory (Art. 41)? Which are the applicable court fees (Art. 42)?

An application for the modification of a ruling shall be submitted to the court that has rendered the ruling. Such application shall not be subject to stamp duty and shall not require representation by a lawyer. The procedural documents shall be submitted according to the general rules, i.e. by delivering them to the court, by post or via the e-system. The other party shall be notified by the court according to general rules, i.e. by post or via the e-system. The court may, on its own initiative or at the request of the party, request the other party to respond (present his/her opinion) concerning the application. A separate appeal may be submitted against the ruling. Representation by a lawyer is not necessary in such a matter.

4. Right to provide security in lieu of preservation

Upon application by the debtor the court that issued the EAPO may order the release of the funds preserved if the debtor provides to that court security in the amount of the Order, or an alternative assurance in a form acceptable under the law of [BE, DE, FR, HR, IT, LT, LU] and of a value at least equivalent to that amount (Art. 38(1)(a) EAPO Reg.). Which are the forms of security in the amount of the PO or alternative assurance acceptable under the law of LT? How does the debtor file the application to provide security in lieu of preservation? How does the court decide on such matter and which is

the applicable procedure? How is the creditor informed under Art. 38(2) EAPO Reg.? Is legal representation mandatory (Art. 41)? Which are the applicable court fees (Art. 42)? How is the release of funds ordered?

A deposit of a specified amount in the court's escrow account or a bank guarantee are normally applied as a potential security. The court notifies the other party according to the usual procedure – by post or through the e-system. The ruling may be appealed under a separate appeal. Representation by a lawyer is not necessary in such a matter. Stamp duty shall not be payable.

5. Rights of third parties

The right of a third party *to contest a EAPO* shall be governed by the law of the Member State of origin (Art. 39(1) EAPO Reg.). Considering that [BE, DE, FR, HR, IT, LT, LU] is the Member State of origin, how do third parties contest a EAPO? Which are the grounds admissible on such regard? Which is the applicable procedure? Is legal representation mandatory (Art. 41)? Which are the applicable court fees (Art. 42)?

An application in the case referred to in Article 39(3)(a) of Regulation (EU) No 655/2014 shall be submitted to the court which has issued the European Account Preservation Order.

An application in the case referred to in Article 39(3)(b) of Regulation (EU) No 655/2014 shall be submitted to the judicial officer who is enforcing or enforced the European Account Preservation Order. There is no obligation to be represented by a lawyer in this matter, and the complaints are not subject to stamp duty.

Such matters shall be dealt with by the court if they are instituted during the proceedings or by the judicial officer if they are instituted during the course of enforcement. Warrants issued by the judicial officer may be challenged before the court as the acts of the judicial officer and separate appeals may be submitted to the court of appeal against the procedural decisions of the district court of the territory of activities of the judicial officer.

Complaints of this nature shall not subject to stamp duty.

II. Incoming

When LT is the Member State of enforcement

A. Enforcement of the Preservation Order

1. Procedure for the enforcement and for the implementation of the Preservation Order

As a general rule, the EAPO shall be enforced in accordance with the procedures applicable to the enforcement of equivalent national orders in the Member State of enforcement (Art. 23(1) EAPO Reg.). Considering that LT is the Member State of enforcement, how is a EAPO enforced, also considering the procedures applicable to the enforcement of equivalent national orders? Is there a specific implementation rule for the competent authorities to act without delay (Art. 23(2))?

A European Account Preservation Order shall be an enforcement instrument. The content of a European Account Preservation Order shall not be subject to the requirements specified in Article 648 of the Code of Civil Procedure of the Republic of Lithuania. European Account Preservation Orders shall be enforced by a judicial officer. The judicial officer shall carry out the actions of receipt, transmission or service of procedural documents referred to in Article 4(14) of Regulation (EU) No 655/2014, as well as the actions referred to in Article 24(4), Article 24, paragraphs 1, 2 and 4 of Regulation (EU) No 655/2014.

An enforcement instrument shall be submitted for enforcement to the judicial officer in whose territory of activities the place of enforcement of the enforcement instrument is located. The place of enforcement shall be determined on the basis of the data stated in the enforcement instrument or according to the data provided by the creditor. A written enforcement instrument shall be submitted to the judicial officer by post or at the judicial officer's office, while an electronic enforcement instrument shall be submitted through the Information System of Judicial Officers. This procedure shall also be used to submit enforcement instruments ordering the recovery of pecuniary amounts to judicial officers.

Written enforcement instruments of non-pecuniary nature, which are not related to the recovery of pecuniary amounts or which, in addition to the recovery of pecuniary amounts, also provide for enforcement actions of non-pecuniary nature, shall be submitted for enforcement to the judicial officer in whose territory the place of enforcement is situated, either by post or at the judicial officer's office. Electronic enforcement instruments in the ADOC format recognised by the Information System

of Judicial Officers of the Republic of Lithuania may also be submitted for enforcement through the Information System of Judicial Officers. Documents in a digital format not recognised by this system shall be submitted directly to the judicial officer.

Upon receipt of an enforcement instrument and a free-form application from the creditor, if no obstacles for the acceptance of the enforcement instrument and commencement of the enforcement proceedings have been identified, the judicial officer shall draw up a warrant to accept the enforcement instrument and open an enforcement file. Before the start of enforcement actions, the creditor shall pay to the judicial officer the administrative fee for the enforcement of the judgment as provided for in the Instruction for the Enforcement of Judgments. Upon successful enforcement of the enforcement instrument, such costs shall be recovered from the debtor. The warrant to accept the enforcement instrument for enforcement and the calculation of the enforcement fee, and, in cases provided for by law, also a warning letter to comply with the decision, shall be sent to the debtor. In case the debtor's whereabouts are unknown, the debtor is absconding or the service of the warning letter to enforce the judgment is impossible for other objective reasons, the warning letter to comply with the judgment shall be published on the website www.antstoliai.lt. The information that the warning letter has been sent or served shall be indicated by the judicial officer in the Information System of Judicial Officers.

A judicial officer shall start enforcement actions: in urgent enforcement cases, no later than on the next working day after the enforcement instrument has been accepted for enforcement; in other cases, no later than within three working days after the enforcement instrument has been accepted for enforcement.

After accepting the enforcement instrument for enforcement, the judicial officer shall issue a warrant to enforce the enforcement instrument and, in the cases provided for by law, also a warning letter to comply with the judgment. Such warrant of the judicial officer shall explain to the debtor that the debt and the enforcement fee will be recovered coercively, and shall also inform about the service of subsequent procedural documents by means of electronic communications. This warrant shall be sent to the debtor by registered mail.

According to the EAPO Reg., a bank to which a Preservation Order is addressed shall implement it without delay following receipt of the Order or, where the law of the Member State of enforcement so provides, of a corresponding instruction to implement the Order (Art. 24(1) EAPO Reg.). Does the law of LT provide for a corresponding

instruction to implement the order or should the bank implement it without delay following receipt of the Order?

Under national law in LT, shall the bank transfer the amount to an account dedicated for preservation purposes (Art. 24(2)(b) EAPO Reg.)?

European Account Preservation Orders shall be enforced by a judicial officer. The judicial officer shall carry out the actions of receipt, transmission or service of procedural documents referred to in Article 4(14) of Regulation (EU) No 655/2014, as well as the actions referred to in Article 24(4), Article 24, paragraphs 1, 2 and 4 of Regulation (EU) No 655/2014. All the actions shall be carried out by a judicial officer.

2. Limitations on the preservation

- i. **Accounts immune from seizure.** The EAPO Reg. does not apply to bank accounts which are immune from seizure under the law of the Member State in which the account is maintained (Art. 2(3) EAPO Reg.). In LT which are the bank accounts immune from seizure?

The Instruction on the Enforcement of Judgments details that recovery, based on enforcement instruments against natural persons, may not be effected from the following types of assets and items that belong to the debtor under ownership right or as his/her share in joint property and are necessary for the debtor or his/her dependants, unless the debtor so requests in writing:

- household furnishings and household goods, clothing needed by the debtor and his/her dependants (clothing and footwear for each member of the family; kitchen and table utensils that are used (except for items made of precious metals and items of artistic value); furniture (except furniture of artistic value) and bedding, cooking equipment, one refrigerator; if minor children or disabled persons live together with the debtor – the belongings of the children and disabled persons, one computer, one TV set, one means of communication; and things of low value);
- the foodstuffs necessary for the debtor's family to survive;
- if the debtor's principal business is agriculture – fodder for animals not subject to recovery, seed for regular sowing, one animal for milk and one animal for meat consumption;
- the fuel necessary to prepare food and heat the family housing throughout

- the heating season;
- personal tools of production and trade, as well as the tools and aids necessary for the debtor's own professional work.

The Instruction on the Enforcement of Judgments also states that a judicial officer shall carry out recovery from the funds in the debtor's account opened with a credit, payment and/or electronic money institution (hereinafter – a credit institution) by submitting a binding order to the Cash Restrictions Information System for the coercive write-off of funds. Before submitting such an order for the coercive write-off of funds, the judicial officer shall check electronically in the Information System of Social Assistance for Families whether the person gets any benefits which are not subject to recovery. If the judicial officer finds out that such benefits have been allocated and/or if he/she has other information that the funds, which are not subject to recovery, are or will be transferred to the debtor's account with a credit institution, the judicial officer shall, in the compulsory order for the coercive write-off of funds, specify the amount of money which the person may dispose of in a calendar month, which shall be equal to the amount of the benefits and/or other funds which are subject to recovery.

If there is no information in the Information System of Social Assistance for Families about the benefits granted to the person and the judicial officer does not have other data that any funds not subject to recovery may be transferred to the person's account opened with a credit institution, before submitting an order for the compulsory write-off of funds to the Information System of Social Assistance for Families, the judicial officer may submit an order to the Register of Property Seizure Acts for the temporary attachment of funds not exceeding the amount of the amount to be recovered and the amount of the enforcement costs. The judicial officer's order for the temporary attachment of monetary funds shall be submitted electronically by using the software for the submission of data to the Register of Property Seizure Acts and shall be automatically transmitted to the Cash Restrictions Information System.

In addition, enforcement actions may not be carried out with respect to persons enjoying diplomatic or consular immunity and their family members, unless they have waived their immunity and/or in other cases provided for by international treaties when they may be defendants in a court of the Republic of Lithuania.

- ii. **Preservation of joint and nominee accounts.** Funds held in accounts which, according to the bank's records, are not exclusively held by the debtor or are held by a third party on behalf of the debtor or by the debtor on behalf of a third party, may be preserved under the EAPO Reg. only to the extent to which they may be subject to preservation under the law of the Member

State of enforcement (Art. 30 EAPO Reg.). Are joint and nominee accounts subject to preservation under the law in LT? If so, to which extent and under which conditions?

Where seizure is effected on the property jointly held by the debtor together with other persons and the debtor's share in the property has not been identified, the judicial officer shall, together with the instrument of property seizure, deliver to the debtor a form of consent for the establishment of a share of the property or for the division of the property by a notarised agreement between the debtor and the other co-owners and shall inform the debtor that the debtor who wishes to establish a share of the property or to divide the property in this way shall submit a filled-in consent form to the judicial officer not later than within 20 days as of the day of the date of drawing up of the property seizure instrument.

Upon receipt of the consent referred to in the first paragraph of this section and after having taken a decision to direct recovery against the debtor's jointly owned property, the judicial officer shall communicate the consent given by the debtor by a warrant to all the creditors who have submitted enforcement instruments to him/her for enforcement as of the day of rendering of the warrant and shall inform that, within 20 days from the day of rendering of the warrant, they may submit an objection to the judicial officer concerning the established share of the property or concerning the property division by a mutual notarised agreement between the debtor and other co-owners.

If not a single creditor submits an objection to the judicial officer concerning the established share of the property or concerning the property division by a mutual notarised agreement between the debtor and other co-owners within the time-limit specified in the second paragraph of this section, the judicial officer shall suggest to the debtor in his/her warrant and, where appropriate, to the co-owners to submit, within 30 days as of the day of issuance of the warrant by the judicial officer, to the judicial officer the agreement on the establishment of a share of the property or the property division certified under the notarial procedure. This time limit may be extended by a reasoned warrant of the judicial officer for a maximum of 30 days.

Together with the warrant where the judicial officer invites the debtor and, where appropriate, the co-owners to submit to the judicial officer a notarised agreement on the determination of the share of the property or the property division, the judicial officer shall issue a certified copy of the consent and shall state in the warrant that the share in the property may be established or the property may be divided and the procedure for the use of the property may be determined in the notarised agreement only in the manner set out in the consent. The judicial officer shall transmit the warrant referred to in this paragraph to the Register of Property Seizure Acts. If the court suspends the enforcement of the judicial officer's warrant referred to in this

paragraph or revokes the warrant, or if other circumstances come to light why the debtor's share in the property held jointly with other persons may not be established or why this property may not be divided by a notarised agreement, the judicial officer shall submit a warrant to the Register of Property Seizure Acts to revoke the judicial officer's warrant where the debtor and the co-owners had been invited to submit to the judicial officer a notarised agreement on the determination of the share of the property or the property division.

If, after the dispatch of the warrant with the consent given by the debtor to the creditors under the established procedure, the judicial officer gets new enforcement instruments for enforcement and/or if other judicial officers who carry out recovery from the same debtor join in the recovery from the property to be sold or from the funds obtained after the sale of such property, the new creditors shall not be sent the judicial officer's warrant with the debtor's consent, however, such creditors shall have the right to submit an objection to the judicial officer who sells the property concerning the establishment of the share in the property or concerning the property division by a mutual notarised agreement between the debtor and other co-owners. Such objection shall be submitted to the office of the judicial officer who sells the property before the date of the judicial officer's warrant referred to in the third paragraph of this section, by which the debtor, and, where appropriate, the co-owners, are invited to submit to the judicial officer an agreement certified under the notarised procedure on the establishment of the share in the property or the property division.

If the debtor does not provide the consent to the judicial officer, no longer wishes to enter into a notarised agreement on the establishment of the share in the property or the property division, or if at least one of the creditors submits an objection to the establishment of the share in the property or to the property division under the mutual notarised agreement between the debtor and other co-owners and also if the notarised agreement on the establishment of the share in the property or on the property division is not submitted to the judicial officer within the time limit set out in the second and fifth paragraphs of this section, the judicial officer shall propose to the creditor and, where appropriate, also to the co-owners to apply to the court for the determination of the debtor's share in the property held jointly with other persons. If this request is not submitted to the court within the time limit set by the judicial officer, the judicial officer shall terminate the recovery against such property. Repeated recovery against this property on the basis of the same enforcement instruments shall be possible not earlier than one year after the date of termination of the recovery from that property.

Where the property jointly owned by the debtor together with other persons has been attached by several judicial officers, the actions referred to in the second to sixth paragraphs of this section shall be carried out by the judicial officer who has been

authorised to sell that property.

- iii. Amounts exempt from preservation.** Amounts that are exempt from seizure under the law of the Member State of enforcement shall be exempt from preservation under the EAPO Reg. Where, under the law of the Member State of enforcement, the amounts referred to in paragraph 1 of Art. 31 EAPO Reg. are exempted from seizure without any request from the debtor, the body responsible for exempting such amounts in that Member State shall, of its own motion, exempt the relevant amounts from preservation. Which are the rules on the exemption of amounts from preservation under the law of LT? Does the body responsible for exempting such amounts in LT proceed on its own motion? If so, how does such exemption occur? Has the creditor a right to be heard? For the other case, in which the body responsible for the exemption acts upon application of the debtor, see the following indent.

The Instruction on the Enforcement of Judgments details that recovery, based on enforcement instruments against natural persons, may not be effected from the following types of assets and items that belong to a debtor under ownership right or as his/her share in joint property and are necessary for the debtor or his/her dependants, unless the debtor so requests in writing:

- household furnishings and household goods, clothing needed by the debtor and his/her dependants (clothing and footwear for each member of the family; kitchen and table utensils that are used (except for items made of precious metals and items of artistic value); furniture (except furniture of artistic value) and bedding, cooking equipment, one refrigerator; if minor children or disabled persons live together with the debtor – the belongings of the children and disabled persons, one computer, one TV set, one means of communication; and things of low value);
- the foodstuffs necessary for the debtor's family to survive;
- if the debtor's principal business is agriculture – fodder for animals not subject to recovery, seed for regular sowing, one animal for milk and one animal for meat consumption;
- the fuel necessary to prepare food and heat the family housing throughout the heating season;
- personal tools of production and trade, as well as the aids necessary for the debtor's own professional work.

The Instruction on the Enforcement of Judgments also states that a judicial officer shall carry out recovery from the funds in the debtor's account opened with a credit,

payment and/or electronic money institution (hereinafter – a credit institution) by submitting a binding order to the Cash Restrictions Information System for the coercive write-off of funds. Before submitting such an order for the coercive write-off of funds, the judicial officer shall check electronically in the Information System of Social Assistance for Families whether the person gets any benefits which are not subject to recovery. If the judicial officer finds out that such benefits have been allocated and/or if he/she has other information that the funds, which are not subject to recovery, are or will be transferred to the debtor's account with a credit institution, the judicial officer shall, in the compulsory order for the coercive write-off of funds, specify the amount of money which the person may dispose of in a calendar month, which shall be equal to the amount of the benefits and/or other funds which are subject to recovery.

If there is no information in the Information System of Social Assistance for Families about the benefits granted to the person and the judicial officer does not have other data that any funds not subject to recovery may be transferred to the person's account opened with a credit institution, before submitting an order for the compulsory write-off of funds to the Information System of Social Assistance for Families, the judicial officer may submit an order to the Register of Property Seizure Acts for the temporary attachment of funds not exceeding the amount of the amount to be recovered and the amount of the enforcement costs. The judicial officer's order for the temporary attachment of monetary funds shall be submitted electronically by using the software for the submission of data to the Register of Property Seizure Acts and shall be automatically transmitted to the Cash Restrictions Information System.

Request of the debtor. Where, under the law of the Member State of enforcement, the amounts referred to in paragraph 1 of Art. 31 EAPO Reg. are exempted from seizure at the request of the debtor, such amounts shall be exempted from preservation upon application by the debtor as provided for by point (a) of Art. 34(1) EAPO Reg. *For the procedure applicable under Art. 34 EAPO Reg. see infra §(II)(C)(3).*

Request of the creditor. The creditor may apply to the competent court of the Member State of enforcement or, where national law so provides, to the competent enforcement authority in that Member State, for modification of the enforcement of the PO, consisting of an adjustment to the exemption applied in that Member State pursuant to Art. 31 EAPO Reg., on the ground that other exemptions have already been applied in a sufficiently high amount in relation to one or several accounts maintained in one or more other Member States and that an adjustment is therefore appropriate (Art.

35(4) EAPO Reg.). For the procedure applicable under Art. 35(4) EAPO Reg. see infra §(II)(C)(4).

3. Ranking of the Preservation Order

The EAPO shall have the same rank, if any, as an equivalent national order in the Member State of enforcement (Art. 32 EAPO Reg.). Considering that [BE, DE, FR, HR, IT, LT, LU] is the Member State of enforcement, how is the rank of preservation orders and equivalent national orders determined? Which are the rules that govern such matter?

Claims shall be granted according to the following order of priority:

Claims of the mortgage creditor and the pledgee shall be satisfied from the pledged/mortgaged property by priority.

Claims to recover maintenance and claims to compensate for the damage caused by mutilation or any other health injury as well as resulting from the loss of the breadwinner shall be satisfied first.

Claims of employees deriving from employment legal relations shall be satisfied second.

All other claims shall be satisfied third.

If the amount recovered is not sufficient in order to satisfy all claims of the same rank, they shall be satisfied in proportion to the amount due to each creditor. Where there are several enforcement proceedings in favour of the same creditor, the amounts recovered shall be allocated to satisfy the claims in the earliest enforcement proceedings.

4. Costs incurred by the banks

A bank shall be entitled to seek payment or reimbursement from the creditor or the debtor of the costs incurred in implementing a EAPO only where, under the law of the Member State of enforcement, the bank is entitled to such payment or reimbursement in relation to equivalent national orders. Are banks entitled to seek payment or reimbursement from the creditor or the debtor of the costs incurred in implementing a PO in LT? If so, how should the bank proceed? Which is the applicable procedure? How may the parties object to such request?

This issued is not regulated in Lithuanian law.

B. Means of communication: service and transmission of documents

1. Service on the debtor

Where the debtor is domiciled in LT that is not the Member State of origin, the competent authority that received the EAPO and the accompanying documents shall, without delay, take the necessary steps to have service effected on the debtor in accordance with the law of that Member State (Art. 28(3)) ⁽⁵⁾. Also, where the debtor is domiciled in LT and it is the only Member State of enforcement, the competent authority that received the EAPO and the accompanying documents shall initiate the service of such documents by the end of the third working day following the day of receipt or issue of the declaration showing that amounts have been preserved. In these cases, how does the competent authority in such Member State proceed with service of the documents on the debtor?

In the case referred to in Article 28(3) of Regulation (EU) No 655/2014, when the residence (domicile) of the debtor is in the Republic of Lithuania and the Republic of Lithuania is not the EU Member State of enforcement, procedural documents shall be served to the debtor under the following procedure:

Where cross-border service of documents is effected, the documents received from abroad shall be served under the procedure set out by the Code of Civil Procedure of the Republic of Lithuania and by the Minister of Justice of the Republic of Lithuania to the extent Regulation (EC) No 2020/1784, the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, and laws do not provide otherwise. The Chamber of Judicial Officers of Lithuania shall be the authority designated under Article 3(2) of Regulation (EC) No 2020/1784 as competent to receive requests for the service of documents from other Member States and shall organise and coordinate the service of documents and their transmission to judicial officers for enforcement.

Where the service of documents issued by national courts is effected, the court shall serve documents by post or through the judicial system. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts,

⁵ Please consider that in this case the Member State in which the debtor is domiciled need not be the Member State of enforcement.

insolvency administrators by means of electronic communications (via the e-system).

2. Transmission of documents

- i. **Transmission.** Where the EAPO Reg. provides for transmission of documents in accordance with Art. 29 EAPO Reg., such transmission may be carried out by any appropriate means, provided that the content of the document received is true and faithful to that of the document transmitted and that all information contained in it is easily legible. Considering that [BE, DE, FR, HR, IT, LT, LU] is the Member State of enforcement, which are the means of transmission of documents in that Member State available for the purposes of the EAPO Reg.?

Please consider that such means should be used for the purposes of:

- Art. 14(6) (answer to the request for account information transmitted from the information authority of the MS of enforcement to the requesting court of the MS of origin);
 - 25(2) (declaration concerning the preservation of funds transmitted to the issuing court from the bank, in the event that the PO was issued in the MS of enforcement);
 - 25(3) (declaration concerning the preservation of funds transmitted from the bank to the competent authority of the MS of enforcement);
 - 25(3) (declaration concerning the preservation of funds transmitted from the competent authority of the MS of enforcement to the issuing court).
- ⁶⁾

In the case referred to in Article 28(3) of Regulation (EU) No 655/2014, when the residence (domicile) of the debtor is in the Republic of Lithuania and the Republic of Lithuania is not the EU Member State of enforcement, procedural documents shall be served to the debtor under the following procedure:

Where cross-border service of documents is effected, the documents received from abroad shall be served under the procedure set out by the Code of Civil Procedure of the Republic of Lithuania and by the Minister of Justice of the Republic of Lithuania to the extent Regulation (EC) No 2020/1784, the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, and laws do not provide otherwise. The Chamber of

⁶ Points in green refer to cases in which a private entity, such as the creditor or the bank, is or could be responsible for such transmission. In the other cases, it is an authority to be responsible for such transmission.

Judicial Officers of Lithuania shall be the authority designated under Article 3(2) of Regulation (EC) No 2020/1784 as competent to receive requests for the service of documents from other Member States and shall organise and coordinate the service of documents and their transmission to judicial officers for enforcement.

Where the service of documents issued by national courts is effected, the court shall serve documents by post or through the court system. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts, insolvency administrators by means of electronic communications (via the e-system). Documents and information may also be served by other technical equipment, such as fax and/or email.

- ii. **Receipt.** The court or authority that received documents in accordance with paragraph 1 of Art. 29 EAPO Reg. shall, by the end of the working day following the day of receipt, send to the authority, creditor or bank that transmitted the documents an acknowledgment of receipt, employing the swiftest possible means of transmission and using the standard forms. Considering that LT is the Member State of enforcement, how does the court or authority that received the documents transmit an acknowledgment of receipt?

Please consider that the court or authority of the MS of enforcement receives documents under Art. 29(1) EAPO Reg. in the following cases:

- . Art. 10(2) (revocation of the PO for lack of timely initiation of proceedings transmitted from the issuing court);
- . 14(3) (request for information on the debtor's bank account sustained and transmitted from the issuing court);
- . 23(3) (part A of the PO plus the blank standard form for the bank's declaration transmitted from either the issuing court or the creditor);
- . 25(3) (declaration concerning the preservation of funds received by the competent authority of the MS of enforcement, which shall in turn transmit it to the issuing court and, under Art. 25(3) first subparagraph, to the creditor);
- . 28(3) (transmission of the PO and the accompanying documents – for service on the debtor – from either the issuing court or the creditor);
- . 36(5) (revocation or modification of the PO transmitted from the issuing court). (7)

⁷ Points in green refer to cases in which a private entity, such as the creditor or the bank, is or could be responsible for such transmission. In the other cases, it is an authority to be responsible for such transmission.

In the case referred to in Article 28(3) of Regulation (EU) No 655/2014, when the residence (domicile) of the debtor is in the Republic of Lithuania and the Republic of Lithuania is not the EU Member State of enforcement, procedural documents shall be served to the debtor under the following procedure:

Where cross-border service of documents is effected, the documents received from abroad shall be served under the procedure set out by the Code of Civil Procedure of the Republic of Lithuania and by the Minister of Justice of the Republic of Lithuania to the extent Regulation (EC) No 2020/1784, the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, and laws do not provide otherwise. The Chamber of Judicial Officers of Lithuania shall be the authority designated under Article 3(2) of Regulation (EC) No 2020/1784 as competent to receive requests for the service of documents from other Member States and shall organise and coordinate the service of documents and their transmission to judicial officers for enforcement.

Where the service of documents issued by national courts is effected, the court shall serve documents by post or through the court system. The court shall serve procedural documents to lawyers, assistant lawyers, judicial officers, assistant judicial officers, notaries, state and municipal enterprises, institutions and organisations, financial institutions, insurance and audit companies, forensic experts, insolvency administrators by means of electronic communications (via the e-system). Documents and information may also be served by other technical equipment, such as fax and/or email.

C. Remedies

1. **Revocation or termination of the Preservation Order for lack of initiation of proceedings**

If the court has not received proof of the initiation of proceedings within the time period referred to in paragraph 1 of Art. 10 EAPO Reg., the PO shall be revoked or shall terminate and the parties shall be informed accordingly (Art. 10(2) EAPO Reg.). Where the court that issued the Order is located in the Member State of enforcement, the revocation or termination of the Order in that Member State shall be done in accordance with the law of that Member State (Art. 10(2) second indent EAPO Reg.). How does the court proceed for the revocation or termination of the PO in LT? Is the creditor heard during such procedure? How are the parties informed of the revocation or termination? Please refer to §(I)(D)(1) above.

On the procedure for the submission of the document proving initiation of the proceedings see §(I)(B)(6); on the procedure for the transmission of the revocation or

termination of the PO to the competent authority of the MS of enforcement see §(I)(C)(2).

As there is no specific regulation set out in the case of EAPO, general regulation laid down in the Code of Civil Procedure should be applied by analogy.

The court shall, on its own initiative, revoke provisional protective measures where the person who seeks provisional protective measures fails to lodge a claim within the time limit set by the court. This ruling shall not be subject to appeal by a separate appeal.

The parties shall be informed in the usual way, either by post or via the LITEKO system.

2. Over-preservation of funds

- i. **Debtor.** Any funds held in the account or accounts indicated in the Order or held by the debtor with the bank indicated in the Order which exceed the amount specified in the Preservation Order shall remain unaffected by the implementation of the Order (cf. Art. 24(5) EAPO Reg.). How could the debtor petition the court or the competent authority in LT, if the preservation of accounts exceeds the amount specified in the PO?

The person should submit a free-form application together with evidence that the attachment has been imposed for an excessive amount of money and request to revoke the preservation in that part, leaving the preservation only for the amount necessary according to the procedural decision of the court.

- ii. **Creditor.** By the end of the third working day following receipt of any declaration pursuant to Art. 25 EAPO Reg. showing over-preservation of funds, the creditor shall submit a request for the release to the competent authority of the Member State of enforcement in which the over-preservation has occurred (Art. 27(2) EAPO Reg.). How should the creditor proceed to submit a request for the release of over-preserved funds in LT? Does the competent authority in LT have the power to proceed with release of over-preserved funds from any account maintained in its territory of its own motion (Art. 27(3) EAPO Reg.)?

The person should submit a free-form application together with supporting evidence. The authorities cannot normally carry out such actions on their own initiative, without a request from the person concerned.

3. Limitation or termination of the enforcement of the Preservation Order

- i. **Application of the debtor.** Upon application by the debtor to the competent court or, where national law so provides, to the competent enforcement authority in the Member State of enforcement, the enforcement of the EAPO in that Member State shall be limited or terminated on the grounds listed in Art. 34(1) EAPO Reg. or terminated if it is manifestly contrary to the public policy (ordre public) of the Member State of enforcement (Art. 34(2) EAPO Reg.). Considering that LT is the Member State of enforcement, which is the procedure applicable for the request to limit or terminate the EAPO presented by the debtor? Which are the means of communication, including electronic means, accepted under the procedural rules of LT for the submission of the application (Art. 36(1))? How is the application brought to the notice of the other party (Art. 36(2))? Are both parties granted the right to present their case and which are the accepted means of communication technology (Art. 36(3))? Which is the timeline for the decision of the court and how is the decision brought to the attention of the other parties (Art. 36(4))? How do the parties appeal the decision (Art. 37)? Is legal representation mandatory (Art. 41)? Which are the applicable court fees (Art. 42)?

See also §(II)(A)(2)(iii) for the request to exempt certain amounts from preservation at the request of the debtor.

An application for the remedies, which shall be applied in the Member State of enforcement and which are referred to in Articles 34 and 35 of Regulation (EU) No 655/2014, except Article 34(1)(a) and Article 35(3) of this Regulation, shall be submitted to the district court of the domicile of the judicial officer who is enforcing or enforced the European Account Preservation Order. A separate appeal may be submitted against the ruling of this court concerning remedies. Representation by a lawyer is not necessary in such a matter. Stamp duty shall not be payable. The case shall be heard under the written procedure.

- ii. **Joint application.** The debtor and the creditor may, on the ground that they have agreed to settle the claim, apply jointly to the competent court of the Member State of enforcement or, where national law so provides, to the

competent enforcement authority in that Member State, for termination or limitation of the enforcement of the Order (Art. 35(3) EAPO Reg.). How do the parties apply for termination or limitation of the enforcement of the EAPO under Art. 35(3) in LT? How does the competent court decide on such matter? Is legal representation mandatory (Art. 41)? Which are the applicable court fees (Art. 42)?

The creditor and the debtor may submit a joint application for the revocation or modification of the order. Representation by a lawyer shall not be mandatory for such applications. Stamp duty shall not be payable. The court shall normally decide on the substance of the application by under the written procedure after examining the circumstances and evidence presented.

4. Adjustment to the exemption of amounts

The creditor may apply to the competent court of the Member State of enforcement or, where national law so provides, to the competent enforcement authority in that Member State, for modification of the enforcement of the EAPO, consisting of an adjustment to the exemption applied in that Member State pursuant to Art. 31 EAPO Reg., on the ground that other exemptions have already been applied in a sufficiently high amount in relation to one or several accounts maintained in one or more other Member States and that an adjustment is therefore appropriate (Art. 35(4) EAPO Reg.). How does the creditor apply for such adjustment in LT?

See §(II)(A)(2)(iii) on the request to exempt certain amounts from preservation at the request of the creditor.

An application for the remedies, which shall be applied in the Member State of enforcement and which are referred to in Articles 34 and 35 of Regulation (EU) No 655/2014, except Article 34(1)(a) and Article 35(3) of this Regulation, shall be submitted to the district court of the domicile of the judicial officer who is enforcing or enforced the European Account Preservation Order. A separate appeal may be submitted against the ruling of this court concerning remedies.

5. Right to provide security in lieu of preservation

Termination of enforcement ordered in the Member State addressed.

Upon application by the debtor the competent court or, where national law so provides, the competent enforcement authority of the Member State of enforcement may terminate the enforcement of the EAPO in the Member State of enforcement if

the debtor provides to that court or authority security in the amount preserved in that Member State, or an alternative assurance in a form acceptable under the law of the Member State in which the court is located and of a value at least equivalent to that amount (Art. 38(1)(b) EAPO Reg.). The provision of the security in lieu of preservation shall be brought to the notice of the creditor in accordance with national law (Art. 38(2) EAPO Reg.). Which are the forms of security in the amount of the PO or alternative assurance acceptable under the law of LT? How does the debtor file the application to provide security in lieu of preservation? How does the court decide on such matter and which is the applicable procedure? How is the creditor informed under Art. 38(2) EAPO Reg.? Is legal representation mandatory (Art. 41)? Which are the applicable court fees (Art. 42)? How is the enforcement terminated?

The application referred to in Article 38(1)(b) of Regulation (EU) No 655/2014 shall be submitted to the judicial officer who is enforcing or enforced the European Account Preservation Order.

- i. **Release of funds ordered in the Member State of origin.** In the event that the court that issued the EAPO ordered the release of the funds preserved upon security provided by the debtor (Art. 38(1)(a) EAPO Reg.) (see §(I)(D)(4) supra), how is the order for the release of funds enforced in LT?

The applications of this nature shall be submitted to the judicial officer who enforced the order.

6. Rights of third parties

The right of a third party *to contest the enforcement of a EAPO* shall be governed by the law of the Member State of enforcement (Art. 39(2) EAPO Reg.). Considering that LT is the MS of enforcement, how do third parties contest a EAPO? Which are the grounds admissible on such regard? Which is the applicable procedure? Is legal representation mandatory (Art. 41)? Which are the applicable court fees (Art. 42)?

An application in the case referred to in Article 39(3)(b) of Regulation (EU) No 655/2014 shall be submitted to the judicial officer who is enforcing or enforced the European Account Preservation Order.