



UNIVERSITÀ DEGLI STUDI DI MILANO
 DIPARTIMENTO DI STUDI INTERNAZIONALI,
 GIURIDICI E STORICO-POLITICI



Towards more Effective
 enFORcemenT of claimS in
 civil and commercial matters
 within the EU EFFORTS
 Project JUST-JCOO-AG-
 2019-881802

<https://efforts.unimi.it>

With financial support from
 the Civil Justice Programme
 of the European Union

In partnership with:



Max Planck Institute
LUXEMBOURG
 for Procedural Law



UNIVERSITÄT
 HEIDELBERG
 ZUKUNFT
 SEIT 1386



VRIJE
 UNIVERSITEIT
 BRUSSEL



UNIVERSITÀ DEGLI STUDI DI MILANO
DIPARTIMENTO DI STUDI INTERNAZIONALI,
GIURIDICI E STORICO-POLITICI



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

Authors: Prof. Dr. Alan Uzelac, Assist. Prof. Dr. Marko Bratkovic, Dr. Juraj Brozovic



Summary

I. Outgoing	174
A. Subject matter, scope and main features	174
1. Alternative preservation measures under national law	174
B. Procedure for obtaining a European Account Preservation Order and for the obtaining of account information	175
1. Notion of enforceable title, and procedure to obtain a copy of it which satisfies the conditions necessary to establish its authenticity	175
2. Jurisdiction to issue the EAPO <i>ante causam</i> or pending proceedings on the substance	176
3. Internal competence	176
4. Application for a Preservation Order.....	177
5. Procedure for issuing a Preservation Order	178
6. Initiation of proceedings on the substance of the matter	179
7. Appeal against the refusal to issue the Preservation Order	180
8. Request for the obtaining of account information	180
C. Means of communication: service and transmission of documents	181
1. Service on the debtor	181
2. Transmission of documents	181
D. Remedies	182
1. Revocation or termination of the Preservation Order for lack of initiation of proceedings ...	182
2. Revocation or modification of the Preservation Order.....	182
3. Review of the decision concerning security	183
4. Right to provide security in lieu of preservation.....	184
5. Rights of third parties.....	184
II. Incoming	185
A. Enforcement of the Preservation Order	185
1. Procedure for the enforcement and for the implementation of the Preservation Order	185
2. Limitations on the preservation.....	185
3. Ranking of the Preservation Order	186
4. Costs incurred by the banks.....	187
B. Means of communication: service and transmission of documents	187
1. Service on the debtor	187
3. Transmission of documents	188
C. Remedies	188
1. Revocation or termination of the Preservation Order for lack of initiation of proceedings ...	188
2. Over-preservation of funds.....	189
3. Limitation or termination of the enforcement of the Preservation Order.....	189
4. Adjustment to the exemption of amounts.....	190



5. Right to provide security in lieu of preservation	190
6. Rights of third parties	191

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 CROATIA 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.

If the creditor wishes to seize the bank accounts, the so-called direct payments proceedings are initiated before the Financial Agency. By way of using the debtors PIN number, the Financial Agency has access to confidential information on debtor's bank accounts. It freezes the claimed amount for 60 days which gives opportunity to debtor to react (by lodging a legal remedy with the competent court). If they do not



use that possibility, the frozen assets are transferred to the creditor's bank account (Arts. 204-213 EA).

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* ⁽³⁷⁾, an "enforceable title".

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.).

³⁷ 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.



Titles that are deemed to be enforceable according to domestic law and that may be relevant to the purposes of Art. 5 (b) EAPO Reg. include judgements, payment orders, court settlements and authentic documents such as notarial deeds.

The application for a copy can be filed with the court or notary which has issued the judgement. It seems that a copy of judgements can be issued electronically as well, as it is signed electronically and available to the parties to dispute and their representatives.

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.

Depending on the type of dispute, it can either be one of the municipal courts (in case of civil disputes) or commercial courts (in case of commercial disputes). All courts are listed on the official webpage: <https://sudovi.hr/en/node/4>.

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.



As to the internal competence, the relevant domestic rules provide for the competence of the municipal courts (in case of civil disputes) or commercial courts (in case of commercial disputes), in principle based on the rule *actor sequitur forum rei*. However, there are some exceptions.

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.).

The application for an EAPO can be submitted electronically, but also by post. Attorneys-at-law and legal persons are obliged to submit the applications electronically.

- 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.).

Financial Agency and banks are entitled to charge a fee in accordance with the special Rules (NN, Nos 105/10, 124/11, 52/12 and 6/13; hereinafter 'the Rules'). Fees are the same for both domestic enforceable titles and EAPO. The fee is to be paid by the debtor. The Rules lay down two types of fee: 1. for enforcement with respect to funds of the enforcement debtor, and 2. for consultation and provision of data from the Unified Register of Accounts. The revenue from the fee for enforcing an enforcement instrument is split between Financial Agency (55%) and the banks (45%). The revenue is distributed to the banks in proportion to the total number of accounts held by the debtor in a particular bank on the day on which the fee is levied, in accordance with the data in the Unified Register of Accounts. Financial Agency adopts the price list, containing the amounts of fees, on the basis of a decision of its Board of Management, and the Ministry of Finance approves the proposed price list. The price list is published on FINA's official website. VAT is charged on all fees in the price list.

In proceedings for obtaining a Preservation Order or a remedy against a Preservation Order, court fees are payable on the basis of the value of the application, as follows:



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

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

Over	Up to HRK	HRK
0.00	3 000.00	100.00
3 000.00	6 000.00	200.00
6 000.00	9 000.00	300.00
9 000.00	12 000.00	400.00
12 000.00	15 000.00	500.00

Over HRK 15 000.00 a fee of HRK 500.00 is to be paid, plus 1% of the amount over HRK 15 000.00, up to a maximum of HRK 5 000.00.

5. Procedure for issuing a Preservation Order

- 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.).

There are no specific implementation rules in that regard. The court may conduct such hearing as it deems appropriate. There is also the possibility of online hearing being held.

- 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.).

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.). How does such taking of evidence occur and which is the applicable procedure?

There are no specific implementation rules in that regard. Upon the proposal of the parties (in principle not *ex officio*), the court may use any appropriate method of taking evidence such as an oral hearing of the creditor or of his witness(es) including through videoconference or other communication technology.

- 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.).

There is no specific rule on the form of security acceptable under the Croatian law, but mostly it is in the form of cash deposit with 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.).

EAPO will be served to the debtor *ex officio* in accordance with the rules on service.

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).



The initiation of proceedings requires the filing of the document with the court and their subsequent service to the debtor will be done by the court *ex officio*. Proceedings are considered pending (*lis pendens*) once the debtor has been served by the court.

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.).

The court issues a decision rejecting the application of the creditor in the form of order. The creditor can file an appeal within eight days. An appeal is to be filed with the first instance court (municipal or commercial) and decided by the second instance court (county courts or High Commercial Court). There is no specific rule implementing the *ex parte* nature of the proceedings.

- 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).

The creditor can simply file a new application with the competent court, in which he or she will clearly indicate new facts and evidence (*nova producta*).

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.



By way of using the debtors PIN number, the Financial Agency has access to data from the Unified Register of Accounts.

C. Means of communication: service and transmission of documents

1. Service on the debtor

When CROATIA 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 CROATIA 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.).

The service is usually done by post office or, exceptionally, by special court officials. Since 2019 all legal persons and attorneys-at-law are obliged to use electronic service system. Service within the EU is governed by the EU Service Regulation.

Where the debtor is domiciled in a Member State other than CROATIA, 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.).

The service is initiated by the court.

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.



There is no specific rule in that regard. However, electronic transmission of documents should be acceptable.

- 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.).

There is no specific rule in that regard. However, electronic transmission of documents should be acceptable.

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.).

There is no specific rules in that regard. The court shall revoke the EAPO by an order, which is to be served to the parties.

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.

There are no specific rules on procedure applicable for the request to revoke or modify the PO presented by the debtor. The application can be submitted electronically or by post. There is no clear rule whether both parties are granted the right to present their case. However, the decision of the court is to be served to the parties and there is a right to appeal to be decided by the second instance court. Legal representation is not



mandatory. Court fee is payable on the basis of the value of the application. See above.

- 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.).

In our opinion, Croatian law does not permit a court to revoke or modify the EAPO of its own motion.

- 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.).

There are no specific rules on procedure applicable for the request to revoke or modify the PO under Art. 35(1) and (3). However, the application can be submitted electronically or by post. Legal representation is not mandatory. Court fee is payable based on the value of the application. See above.

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. 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.).

See above the rules on revocation or modification of the Preservation Order.



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 CROATIA and of a value at least equivalent to that amount (Art. 38(1)(a) EAPO Reg.).

There is no specific rule on form of security in the amount of the PO or alternative assurance acceptable under the Croatian law. The debtor can file the application electronically or by post. The decision of the court is to be served on the parties. Legal representation is not mandatory. Court fee is payable based on the value of the application. See above.

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.).

No clear rule in that regard.



II. Incoming

When CROATIA 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.).

All incoming POs are to be served to the Municipal Civil Court in Zagreb, but Financial Agency is the authority competent for the enforcement of the PO, in accordance with the procedures applicable to the enforcement of equivalent national orders.

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.).

Financial Agency blocks the bank account immediately following the receipt of the order.

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.).

Enforcement is not carried out on incomes and amounts that are exempted from enforcement by law (e.g. child allowance, alimony, unemployment benefits, a certain part of the salary etc.). For them Financial agency opens a special (protected) account.



- 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.).

It is not clear whether joint and nominee accounts are subject to preservation under Croatian law.

- 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.

See above answer 2.i.

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.

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.).

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.).



The rank of preservation orders is in principle determined in accordance with the rule *prior tempore potior iure*.

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.

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

B. Means of communication: service and transmission of documents

1. Service on the debtor

Where the debtor is domiciled in Croatia, 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)) ⁽³⁸⁾. Also, where the debtor is domiciled in Croatia 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.

Municipal Civil Court in Zagreb is the only competent authority for receiving EAPOs. Its task is to serve the EAPO to the debtor.

³⁸ Please consider that in this case the Member State in which the debtor is domiciled need not be the Member State of enforcement.



3. 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.

There is no specific rule in that regard. However, electronic transmission of documents should be acceptable.

- 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.

There is no specific rule in that regard. However, electronic transmission of documents should be acceptable.

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.).

There is no specific rules in that regard. The court shall revoke the EAPO by an order, which is to be served to the parties.



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.).

If the preservation of accounts exceeds the amount specified in the PO, probably would be the best to file an application to the Municipal Civil Court in Zagreb.

- 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.).

The creditor can submit a request for the release of over-preserved funds to the Municipal Civil Court in Zagreb. It is not clear whether that court has the power to proceed with release of over-preserved funds of its own motion (Art. 27(3) EAPO Reg.).

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.).

There are no specific rules on limitation or termination of the enforcement of the Preservation Order. The application can be submitted electronically or by post to the Municipal Civil Court in Zagreb. There is no clear rule whether both parties are granted the right to present their case. However, the decision of the court is to be served to the parties and there is a right to appeal to be decided by the second instance court.



Legal representation is not mandatory. Court fee is payable on the basis of the value of the application. See above.

- 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.).

There are no specific rules in that regard. However, the application can be submitted electronically or by post to the Municipal Civil Court in Zagreb. Legal representation is not mandatory. Court fee is payable based on the value of the application. See above.

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.).

The creditor may apply to the Municipal Civil Court in Zagreb for modification of the enforcement of the EAPO.

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.).

There is no specific rule on form of security in the amount of the PO or alternative assurance acceptable under the Croatian law. The debtor can file the application electronically or by post. The decision of the court is to be served on the parties. Legal representation is not mandatory. Court fee is payable based on the value of the application. See above.

- 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.)

The deposited security is to be transferred to the debtor.

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.).

Third parties can contest a EAPO claiming that enforcement on the assets (funds) is inadmissible because, for instance, the assets do not belong to the debtor, but to the third party.