

General Guidelines for the European Account Preservation Order

As already reported by Pietro Franzina at Aldricus, the Cyprus Presidency has transmitted to the Council of the European Union suggested general guidelines for future work on the European Account Preservation Order.

One of the critical issues raised by the text is the protection of the debtor. On this front, the Presidency proposes the following amendments:

(a) The application for a Preservation Order should contain an affirmation that the information provided by the creditor is true and complete, as well as a reminder that any deliberate false statements or omissions may lead to legal consequences under the law applicable.

(b) In principle, only a court should be empowered to issue a Preservation Order.

(c) The Preservation Order should be revoked without any intervention being required on the part of the debtor if the creditor fails to initiate proceedings on the substance of the matter within the time-limit specified in the proposed Regulation. Further discussions are needed to define the functioning of this mechanism (including the issue of time limits).

Additionally, it is suggested to explore further:

(a) The creditor should be liable to the debtor for any damage caused by any violation by him of his duties under the proposed Regulation, under circumstances and standards to be agreed later by the Member States.

(b) When the creditor applies for a Preservation Order before initiating proceedings on the substance of his claim, he should, in principle, have to provide some kind of security to ensure adequate compensation to the debtor for damage caused by any violation by the creditor of his duties under the proposed Regulation. The court should have discretion to dispense with this

requirement in situations where the provision of such security would be inappropriate or unnecessary.

Interested readers will find the text of the document [here](#).