

European Account Preservation Order adopted

The European Commission issued yesterday the following Press Release.

European Account Preservation Order adopted: New EU rules will make it easier for companies to recover millions of cross-border debt

New EU rules making it easier for companies to recover claims across borders have been adopted today by EU Ministers. Member States in the General Affairs Council signed off on the agreement recently reached with the European Parliament to establish a European Account Preservation Order (MEMO/14/101) – a Regulation that will be directly applicable in the Member States (except in the UK and Denmark which have an opt-out in this area). The European Account Preservation Order is essentially a European procedure that will help businesses recover millions in cross-border debts, allowing creditors to preserve the amount owed in a debtor’s bank account. The proposal had been made by the European Commission in July 2011 (IP/11/923).

“Every Euro counts: Small and medium-sized enterprises are the backbone of European economies, making up 99% of businesses in the EU. Around 1 million of them face problems with cross-border debts. In economically challenging times companies need quick solutions to recover outstanding debts. This is exactly what the European Account Preservation Order is about,” said Johannes Hahn, EU Commissioner responsible for Justice during Vice-President Viviane Reding’s electoral leave. “Today’s adoption is good news for Europe’s SMEs and the economy. Thanks to these new rules, small businesses will no longer be forced to pursue expensive and confusing lawsuits in foreign countries.”

While the EU’s internal market allows businesses to enter in cross-border trade and boost their earnings, today around 1 million small businesses face problems with cross-border debts. Up to €600 million a year in debt is unnecessarily written off because businesses find it too daunting to pursue expensive, confusing lawsuits in foreign countries. The European Account Preservation Order will help recovering debt across borders by preventing debtors from moving their assets to another country while procedures to obtain and enforce a judgment on the merits

are ongoing. It would thus improve the prospects of successfully recovering cross-border debt.

Next steps: After its publication in the Official Journal - the EU's Statute book, expected in June 2014, the Regulation will be directly applicable in the Member States (except in the UK and Denmark).

Background

The new European Account Preservation Order will allow creditors to preserve funds in bank accounts under the same conditions in all Member States of the EU (except the UK and Denmark where the new EU rules will not apply). Importantly, there will be no change to the national systems for preserving funds. The creditors will be able to choose this European procedure to recover claims abroad in other EU countries. The new procedure is an interim protection procedure. To actually get hold of the money, the creditor will always have to obtain a final judgment on the case in accordance with national law or by using one of the simplified European procedures, such as the European Small Claims Procedure.

The European Account Preservation Order will be available to the creditor as an alternative to procedures existing under national law. It will be of a protective nature, meaning it will only block the debtor's account but not allow money to be paid out to the creditor. The procedure will only apply to cross-border cases. It provides common rules relating to jurisdiction, conditions and procedure for issuing an order; a disclosure order relating to bank accounts; how it should be enforced by national courts and authorities; and remedies for the debtor and other elements of defendant protection.

The European Parliament's Legal Affairs Committee (JURI) voted to back the Commission's proposal (MEMO/13/481) in May 2013. Ministers discussed the proposal at the Justice Council meeting on 6 June 2013 and reached a general approach on 6 December 2013 (SPEECH/13/1029). The European Parliament issued its support for the proposal in a plenary vote in April 2014 (see MEMO/14/308).

H/T: Maarja Torga