

# Implementation of the EAPO in Greece

By virtue of Article 42 Law 4509/2017, a new provision has been added to the Code of Civil Procedure, bearing the title of the EU Regulation. Article 738 A CCP features 6 paragraphs, which are (partially) fulfilling the duty of the Hellenic Republic under Article 50 EAPO. In brief the provision states the following:

- 1: The competent courts to issue a EAPO are the Justice of the Peace for those disputes falling under its subject matter jurisdiction, and the One Member 1<sup>st</sup> Instance Court for the remaining disputes. It is noteworthy that the provision does not refer to *the court*, but to its respective *judge*, which implies that no oral hearing is needed.
- 2: The application is dismissed, if
  1. it does not fulfil the requirements stipulated in the Regulation, or if
  2. the applicant does not state the information provided by Article 8 EAPO, or if
  3. (s)he does not proceed to the requested amendments or corrections of the application within the time limit set by the Judge.

Notice of dismissal may take place by an e-mail sent to the account of the lawyer who filed the application. E-signature and acknowledgment of receipt are prerequisites for this form of service.

The applicant may lodge an appeal within 30 days following notification. The hearing follows the rule established under Article 11 EAPO. The competent courts are the ones established under the CCP.

- 3: The debtor enjoys the rights and remedies provided by Articles 33-38 EAPO. Without prejudice to the provisions of the EU Regulation, the special chapter on garnishment proceedings (Articles 712 & 982 et seq. CCP) is to be applied.
- 4: If the EAPO has been issued prior to the initiation of proceedings to the substance of the matter, the latter shall be initiated within 30 days following service to the third-party.

If the applicant failed to do so, the EAPO shall be revoked ipso iure, unless the applicant has served a payment order within the above term.

- 5: Upon finality of the judgment issued on the main proceedings or the payment order mentioned under § 4, the successful EAPO applicant acquires full rights to the claim.
- 6: The liability of the creditor is governed by Article 13 Paras 1 & 2 EAPO. Article 703 CCP (damages against the creditor caused by enforcement against the debtor) is applied analogously.

Some additional remarks related to the Explanatory Report would provide a better insight to the foreign reader.

1. There is an explicit reference to the German and Austrian model.
2. The placement of the provision (i.e. within the 5<sup>th</sup> Book of the CCP, on Interim Measures) clarifies the nature of the EAPO as an interim measure, despite its visible connotations to an order, which is regulated in the 4<sup>th</sup> chapter of the 4<sup>th</sup> Book, on Special Proceedings. Nevertheless, the explanatory report acknowledges resemblance of the EAPO to a payment order.
3. There is no need to provide information on the authority competent to enforce the EAPO, given that the sole person entrusted with execution in Greece is the bailiff.

The initiative taken by the MoJ is more than welcome. However, a follow-up is imperative, given that Article 738 A CCP does not provide all necessary information listed under Article 50 EAPO.