# A centralized court for the EAPO Regulation in the Czech Republic?

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**Introduction**

On 22 January 2021, the Czech Chamber of Deputies approved "the government act amending Act No. 6/2002 Coll., on courts, judges, lay judges and the state administration of courts and amending certain other acts (the Courts and Judges Act), the wording of later regulations, and other related laws, according to the Chamber of Deputies 630 as amended by the Chamber of Deputies". The reform is now pending before the Czech Senate.

**The first legislative implementation of the EAPO Regulation in the Czech national law**

This act introduces the very first amendment of the Czech domestic legislation regarding Regulation No 655/2014, establishing a European Account Preservation Order ("EAPO Regulation").

The act foresees the concentration of all the applications for EAPOs in one single court, and namely the Prague 1 District Court (*Obvodní soud pro Prahu 1*). Nowadays, based on the information available in the *e-justice* portal, the competent court corresponds to the territorially competent court in the debtor's domicile. However, if the debtor lives outside the Czech Republic, the competent court is the one of the district where the debtor is domiciled.

The upcoming reform envisaged with the act will also affect the application mechanism to gather information on the bank accounts established in Article 14 of the EAPO Regulation. Creditors can also request to investigate if debtors hold bank accounts in the other Member States. Each Member State has an information authority which is charge of searching for the information on the bank accounts. Member States had to notify the Commission with the names of

the information authorities by 16 July 2016.

Currently, there is no central information authority in the Czech Republic. Any district court with territorial competence over the debtor's domicile is an information authority for the purposes of the EAPO Regulation. When the debtor is not domiciled in the Czech Republic, the information authority is the competent court in the district where the bank, which holds the accounts, is located. This can result in challenges for the courts of other Member States searching the information. In case the creditor even ignores the name of the debtor's bank, how can the competent authority to provide the information on the bank accounts be identified? One Luxemburgish judge has experienced this very dilemma.

The information on the bank accounts is obtained directly from the banks. Czech courts submit a request to "all banks in its territory to disclose, upon request by the information authority, whether the debtor holds an account with them" (Article 14(5)(b) of the EAPO Regulation).

Eventually, if the reform is approved by the Czech Senate, the information authority will also be centralized in the Prague 1 District Court.

**The reasons behind the implementation**

According to Dr. Katerina Valachová, the member of the Czech Chamber of Deputies who sponsored the amendments concerning the EAPO Regulation, the reform is due to "the complexity of the legislation on the EAPO, as well as the short deadlines set by the EAPO Regulation". Having a single court for all the EAPO applications will help in terms of specialization. Furthermore, since most of the headquarters of the banks that operate in the Czech Republic are located within the area of the Prague 1 District Court when the court acts as an information mechanism, it can obtain the information on the bank accounts from the banks faster.

**The Czech reform in the European context**

Establishing a central authority to gather information on the bank accounts is the most common solution followed among those Member States in which the EAPO Regulation applies. Only four out of the twenty-six Member States (France, Finland, Latvia, and the Netherlands), have opted for a complete decentralized information authority. Two other Member States, Austria, and Italy adopted a

hybrid approach: they have a central authority when the debtor is domiciled abroad and a decentralized authority when the debtor is domiciled in the country.

However, establishing a centralized court to handle all EAPO applications is a less common choice among other Member States. Only three countries have appointed centralized courts to issue EAPOs: Austria, Slovakia, and Finland.

The Czech Republic's two neighbouring Member States, Slovakia and Austria, introduced a partial centralization of the EAPOs applications. In Slovakia, the Banská Bystrica District Court (*Okresný súd Banská Bystrica*) handles all the EAPO applications when the debtor's "general territorial affiliation cannot be determined" within the Slovakian territory. In Austria, the Vienna Inner City District Court (*Bezirksgericht Innere Stadt Wien*) is responsible for issuing all the EAPOs when requested before initiation of the proceedings on the merits and before the enforcement of the judgment on the merits of the claim.

Finland has gone a step further than Austria and Slovakia. Similarly, to the ongoing Czech reform, it appointed one sole court – the district court of Helsinki – responsible for issuing all EAPOs.

Outside the EAPO Regulation scheme, we can also find examples of domestic "centralized courts" responsible for other European civil proceedings. For instance, in Germany the European Payment Order ("EPO") was centralized in the Local Court in Wedding, Berlin. In 2019, France the French legislator approved the creation of a centralized court, which will handle all the EPO applications.

**A more efficient application of the EAPO Regulation**

Establishing a centralized court for the EAPO Regulation in Czechia is very welcome among those of us who want the EAPO Regulation to become a successful instrument. The future central court will become specialized with the EAPO Regulation, an instrument that can result too complex and requires a certain amount time for its adequate understanding. The centralization will also assure a coherent and uniform application of the EAPO Regulation at the Czech national level. Moreover, in case an issue on the interpretation of the text of that Regulation arises, that centralized court might be more willing to make a preliminary reference to the European Court of Justice ("ECJ") than regular judges who might not encounter many applications for EAPOs. The ECJ has itself expressly acknowledged the benefits of the centralization in the context of the

Maintenance Regulation. In fact, in C-400/13, *Sanders and Huber*, the ECJ affirmed that "a centralization of jurisdiction, such as that at issue in the main proceedings, promotes the development of specific expertise, of such a kind as to improve the effectiveness of recovery of maintenance claims, while ensuring the proper administration of justice and serving the interests of the parties to the dispute" (C-400/13, *Sanders and Huber*, 18 December 2014, ECLI:EU:C:2014:2461, para. 45).

Hopefully, in the future more Member States will follow the example of Czechia or Finland and will concentrate the application of the EAPO in a sole court in their territories.