# European Account Preservation Order Regulation

European Commission
DG Justice
Unit A1 – Civil Justice

***Disclaimer: These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union***

# European Account Preservation Order

Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters

- Entered into application on **18 January 2017**

# Main features of the EAPO Regulation (I)

- Establishes new European procedure for preserving bank accounts
- EAPO procedure allows freezing bank accounts in several Member States by a single order issued by the court
- EAPO procedure is an alternative to national procedures
- EAPO is protective measure available to the creditor wishing to secure the subsequent enforcement of a judgment against the debtor

# Main features of the EAPO Regulation (II). Scope

**Territorial scope**: does not apply in UK and DK. UK or Danish creditors cannot use EAPO procedure.

Applies only in **cross border cases**: where bank account(s) to be preserved are maintained in a) a MS other than that of the court seised with application for the order or b) the MS in which the creditor is domiciled (Article 3).

Only EU domiciled creditors; only accounts maintained in the EU

**Material scope**: applies to secure pecuniary claims in civil and commercial matters. Exclusions: succession, bankruptcy, arbitration, etc

# Procedure - obtaining the EAPO (I)

-condition for issue: a risk that without the EAPO the subsequent enforcement of the claim against the debtor will be impeded …; Article 7

-jurisdiction to issue the EAPO: when no title yet-in the courts of the MS where jurisdiction on substance lies; when there is title already-courts of the MS where the judgment was granted; Article 6

-*ex parte* procedure (debtor is not informed).

# Procedure - obtaining the EAPO (II)

-application by the creditor using the application form (Article 8);

-obligation for the creditor to initiate proceedings on the substance of the matter (if no title yet) (Article 10);

-provision of security by the creditor in certain cases (Article 12);

-access to information about debtor's bank accounts in certain cases (Article 14);

-the EAPO is issued in a standard prescribed form (Article 19);

# Enforcement

-EAPO is enforceable in the other Member States without the need for a declaration of enforceability;

-transmission of the EAPO to the bank which has to implement it (preserve the amount); bank (or other entity) has to issue *declaration* on preservation of funds (Art. 25);

-thereafter: service on the debtor (the order, the bank declaration, etc) (Art. 28).

# Remedies

**Remedies** of the debtor against the order or its enforcement (Art. 33 and 34), available, respectively, in:

- the state of the court that *issued the order* or
- the *enforcement state* - against the enforcement in that State

Right to appeal by either party against the decision above (Article 37)

# Other provisions protecting the debtor

- exempted amounts from seizure under national law;
- creditor's duty to release over preserved amounts;
- creditor's liability;
- debtor's right to provide security in lieu of preservation,
- etc

# Notification obligations for the Member States

List in Article 50:

*Authority competent to obtain account information, courts for appeal, national rules applicable for exempted amounts, fees charged by banks, competent courts or authorities for remedies, etc.*

*Information published on e-Justice Portal*

# Conclusions

**Advantages of the Regulation**:

-Allowing creditors to use an efficient and uniform procedure under the same conditions in all MS;

-Allowing to obtain information about the **whereabouts** of the debtor's account;

-Reducing lawyer's fees and translation costs (via **use of the forms**, e.g. application form, form for appeal);

-**Speeding-up** the granting and enforcement of preservation orders – number of deadlines provided in the Regulation.

# Commission Implementing Regulation No 2016/1823

*Establishes 9 forms for the EAPO procedure:*

- Form for application for the EAPO;
- EAPO form;
- Declaration concerning the preservation of funds;
- Form to apply for a remedy;

Etc.