

New law on court enforcement of European account preservation orders

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On 4 August 2018 the Law of 18 July 2018 on the Conversion of the European Account Preservation Order (EAPO) into an Enforceable Attachment of Bank Accounts (EAPO Conversion Law) came into force.⁽¹⁾ The law is based on the EU EAPO Regulation (655/2014).

The EU EAPO Regulation deals only with the conservatory phase; Article 23 thereof expressly refers to national law with regard to the enforcement phase, stating that attachment orders must be enforced through the courts in accordance with the procedures applicable to the enforcement of equivalent national orders in the member state of enforcement.

Luxembourg's existing legislation proved to be poorly adapted to the execution of EAPOs, which created legal uncertainty for practitioners. This situation was deemed to be unacceptable in view of the considerable number of bank accounts opened in Luxembourg by international entities. The EAPO Conversion Law therefore adds Article 718-1 to the Civil Procedure Code, which sets out a specific court enforcement procedure applicable only to EAPOs.

Court enforcement procedure

According to Article 718-1, creditors that hold an enforceable judgment regarding a claim for which they have obtained an EAPO must have a conversion document served to the relevant Luxembourg banks and the debtor.

Conversion documents must contain:

- a copy of Part A of the EAPO;
- a copy of any decision that modified the EAPO;
- a copy of the enforceable judgment;
- a statement of the amounts due under the enforceable judgment;
- a payment request; and
- a statement that the conversion document will result in the immediate transfer of the claim to the creditor.

Debtors may object to the conversion deed in the event of:

- the inaccuracy of the statement of the amounts due;
- the disappearance or amendment of the enforceable judgment; or,
- the cancellation or amendment of the EAPO.

Objections must be notified to the creditor and the bank within 15 days (without prejudice to any distance periods in the event that the debtor does not reside in Luxembourg). They will be judged by the president of the district court, whose decision cannot be appealed. If no objection is raised by the

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debtor within the time limit, the bank will proceed with payment on the presentation of a certificate prepared by the bailiff who served the conversion document.

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Endnotes

(1) Further information is available [here](#) and [here](#).

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