Commission Implementing Regulation (EU) 2016/1823 of 10 October 2016 establishing the forms referred to in Regulation (EU) No 655/2014 of the European Parliament and of the Council establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters

COMMISSION IMPLEMENTING REGULATION (EU) 2016/1823

of 10 October 2016

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

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 51 thereof,

Whereas:

(1) In order to ensure the proper application of Regulation (EU) No 655/2014 several forms should be established.

(2) In accordance with Article 3 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland took part in the adoption of Regulation (EU) No 655/2014. Therefore Ireland is taking part in the adoption of this Regulation.

(3) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom did not take part in the adoption of Regulation (EU) No 655/2014. Therefore the United Kingdom is not taking part in the adoption of this Regulation.

(4) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark did not take part in the adoption of Regulation (EU) No 655/2014. Therefore Denmark is not taking part in the adoption of this Regulation.

(5) The measures provided for in this Regulation are in accordance with the opinion of the European Account Preservation Order Committee established under Regulation (EU) No 655/2014,

HAS ADOPTED THIS REGULATION:

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1823. (See end of Document for details)

Article 1

1 The form to be used to apply for a European Account Preservation Order, as referred to in Article 8(1) of Regulation (EU) No 655/2014, shall be as set out in Annex I to this Regulation.

2 The form to be used for the issue of a European Account Preservation Order, as referred to in Article 19(1) of Regulation (EU) No 655/2014, shall be as set out in Annex II to this Regulation.

3 The form to be used for the revocation of a European Account Preservation Order, as referred to in Article 10(2) of Regulation (EU) No 655/2014, shall be as set out in Annex III to this Regulation.

4 The form to be used for the issue of a declaration concerning the preservation of funds, as referred to in Article 25(1) of Regulation (EU) No 655/2014, shall be as set out in Annex IV to this Regulation.

5 The form to be used to request the release of over-preserved amounts, as referred to in Article 27(2) of Regulation (EU) No 655/2014, shall be as set out in Annex V to this Regulation.

6 The form to be used for the issue of an acknowledgement of receipt, as referred to in Article 29(2) of Regulation (EU) No 655/2014, shall be as set out in Annex VI to this Regulation.

7 The form to be used to apply for a remedy, as referred to in Article 36(1) of Regulation (EU) No 655/2014, shall be as set out in Annex VII to this Regulation.

8 The form to be used to transmit a decision on a remedy to the Member State of enforcement, as referred to in Article 36(5) of Regulation (EU) No 655/2014, shall be as set out in Annex VIII to this Regulation.

9 The form to be used to appeal against a decision on a remedy, as referred to in Article 37 of Regulation (EU) No 655/2014, shall be as set out in Annex IX to this Regulation.

Article 2

This Regulation shall enter into force on 18 January 2017.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 10 October 2016.

For the Commission

The President

Jean-Claude JUNCKER

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1823. (See end of Document for details)*

ANNEX I

Application for a European Account Preservation Order

(Article 8(1) of 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)

To be filled in by the court

Case number:

Received by the court on:

(dd/mm/yyyy)

IMPORTANT INFORMATION

PLEASE READ THE GUIDELINES AT THE BEGINNING OF EACH SECTION — THEY WILL HELP YOU TO FILL IN THIS FORM

Language

Fill in this form in the language of the court of the Member State to which you are sending your application. Please note that the form is available in 23 official languages of the European Union on the website of the European e-Justice Portal at https://e-justice.europa.eu/content_european_account_preservation_order-378-en.do and it can also be filled in online. The language version with which you are familiar may help you in fillingin the form in the required language of the court of the Member State concerned. On the website of the European e-Justice Portal you can also find information as to whether a given Member State has indicated that it will accept documents addressed to the court in another official language of the European Union (Article 50(1)(o) of Regulation (EU) No 655/2014).

Supporting documents

The application form must be accompanied by all relevant supporting documents. If you have already obtained a judgment, court settlement or authentic instrument, please attach a copy of that judgment, court settlement or authentic instrument which satisfies the conditions necessary to establish its authenticity.

Country codes

Whenever you refer to a Member State in filling in this form, please use the following country codes:

AT	Austria	EL	Greece	IT	Italy	PT	Portugal
BE	Belgium	ES	Spain	LT	Lithuania	RO	Romania
BG	Bulgaria	FI	Finland	LU	Luxembourg	SE	Sweden
CY	Cyprus	FR	France	LV	Latvia	SI	Slovenia
CZ	Czech Republic	HR	Croatia	MT	Malta	SK	Slovakia
DE	Germany	HU	Hungary	NL	Netherlands		
EE	Estonia	IE	Ireland	PL	Poland		

Where this form provides for adding free text, and when filling in the form on paper, please use additional sheets if necessary and number each page.

Changes to legislation: There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1823. (See end of Document for details)

1. **Court**

Please note that you can only apply for a European Account Preservation Order ('the Preservation Order') if the court is located in a Member State to which Regulation (EU) No 655/2014 applies. This is currently not the case for Denmark and the United Kingdom.

In this field you should identify the court with which you want to lodge your application for a Preservation Order. When deciding which court to choose, you need to consider the grounds for the court's jurisdiction.

If you have not yet obtained a judgment, court settlement or authentic instrument that requires the debtor to pay your claim, jurisdiction for issuing the Preservation Order lies with the courts of the Member State that have jurisdiction on the substance of the matter in accordance with the applicable rules. These include, in particular Regulation (EU) No 1215/2012 **of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters** and **Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations**. More information on the rules of jurisdiction can be found on the website of the European e-Justice Portal at https://e-justice.europa.eu. A list of possible grounds of jurisdiction is included in section 5 of this form.

For the purposes of Regulation (EU) No 655/2014, the proceedings on the substance of the matter cover any proceedings aimed at obtaining an enforceable title on your underlying claim, for example, summary proceedings concerning orders to pay and proceedings such as the 'procédure de référé' in France.

If the debtor is a consumer who has concluded a contract with you for a purpose that can be regarded as being outside his trade or profession, only the courts of the Member State in which the debtor is domiciled can issue a Preservation Order.

If you already obtained a judgment or court settlement that requires the debtor to pay your claim, jurisdiction for issuing the Preservation Order lies with the courts of the Member State in which the judgment was issued or the court settlement was approved or concluded.

If you already obtained an authentic instrument, jurisdiction for issuing the Preservation Order for the claim specified in that instrument lies with the court designated for that purpose in the Member State in which that instrument was drawn up.

Once you have determined in which Member State you should bring your claim, you can find the names and addresses of the competent courts for the Preservation Order on the website of the European e-Justice Portal at https://e-justice.europa.eu/content_european_account_preservation_order-379-en.do. On the European e-Justice Portal you can also find certain information on the payment of court fees in proceedings to obtain the Preservation Order in the Member State concerned.

1. **Court before which you are lodging your application**

1.1. Name:

1.2. Address

1.2.1. Street and number/PO box:

1.2.2. Place and postcode:

1.2.3. Member State (please indicate the country code):

2. **Creditor**

Please note that you can only apply for a Preservation Order if you are domiciled in a Member State to which Regulation (EU) No 655/2014 applies. This is currently not the case for Denmark and the United Kingdom.

This field must identify you as the creditor and indicate your legal representative, if you have one. Please note that it is not mandatory to be represented by a lawyer or other legal professional.

It may not be sufficient in some countries to give only a PO box (when available) as the address and you should therefore include the street name and number with a postcode.

2. **Creditor's details**

2.1. Surname and given name(s)/name of company or organisation:

2.2. Address

2.2.1. Street and number/PO box:

2.2.2. Place and postcode:

2.2.3. Member State (please indicate the country code):

2.3. Telephone:[(2)]

2.4. Fax[(2)]

2.5. Email (if available):

2.6. Name of creditor's representative, if any, and contact details

2.6.1. Surname and given name(s):

2.6.2. Address

2.6.2.1. Street and number/PO box:

2.6.2.2. Place and postcode:

2.6.2.3. Country (if a Member State, please indicate the country code):

2.6.3. Email (if available):

2.7. If the creditor is a natural person:

2.7.1. Date of birth:

2.7.2. Identification or passport number (if applicable and available):

2.8. If the creditor is a legal person or other entity having legal capacity to sue or be sued under the law of a Member State:

2.8.1. The country of incorporation, formation or registration (if a Member State, please indicate the country code):

2.8.2. The identification or registration number or, where no such number exists, the date and place of its incorporation, formation or registration:

3. **Debtor**