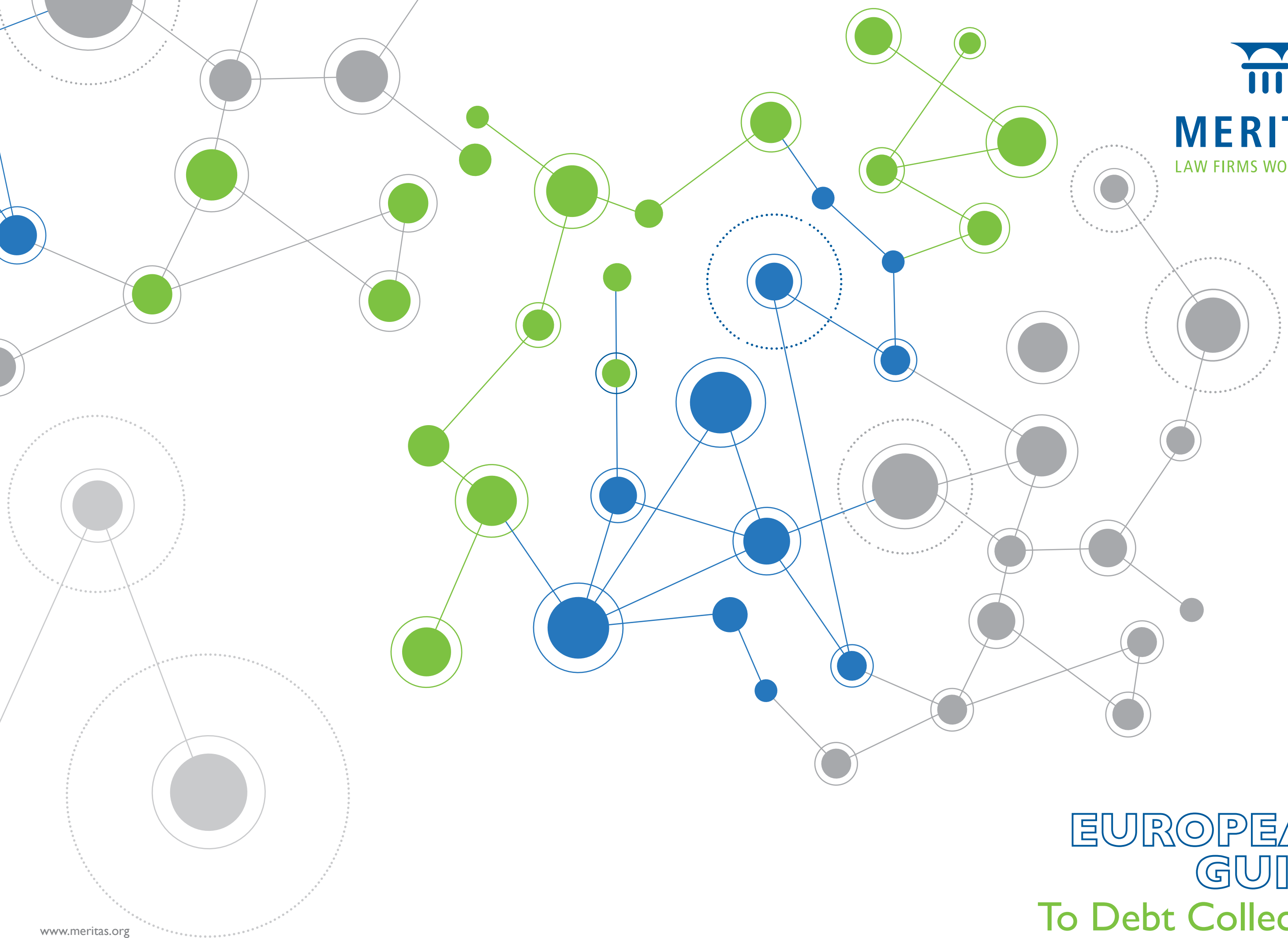




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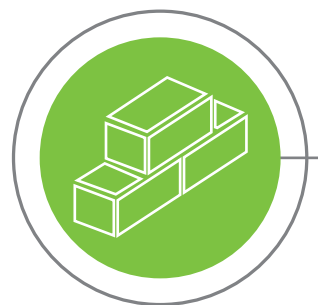
# EUROPEAN GUIDE To Debt Collection

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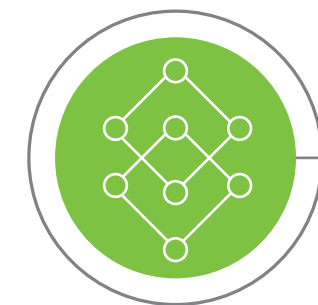
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# INTRODUCTION

This guide provides an overview of recovering proceedings for claims across Europe. Notwithstanding the EU initiatives to facilitate the recovery of a monetary claim in another EU Member State, experience teaches that calling upon counsel from the jurisdiction where the debtor resides is appropriate, if not required.

Local counsel shall be able to **assess the creditworthiness of the debtor** and are best placed to assess whether conservatory measures can be obtained to secure the recovery of the claim. Failing to do so risks to render the time, effort and money for recovering a claim a bad business decision.

After an insight into the two relevant EU Regulations, this guides **offers an overview per EU Member State**, on the principles of asset tracing, conservatory measures, recovery proceedings for undisputed claims and enforcement measures.



**Assess**  
the Creditworthiness  
of the Debtor



**Assess**  
whether Conservatory  
Measures can be Obtained

Please note: this guide is for general information purposes only and is not intended to provide comprehensive legal advice. For more information, or for detailed legal advice, please contact any of the lawyers listed at the end of each chapter.

The information contained in this guide is accurate as at 1 August 2017. Any legal, regulatory or tax changes made after this date are not included.

## EU REGULATIONS FOR RECOVERING CLAIMS ABROAD

The EU provides for a number of regulations to facilitate litigation and debt recovery throughout the EU. Next to the general Brussels Regulation on jurisdiction and enforcement, the lesser used EEO Regulation on the European Enforcement Order for uncontested claims and the Regulation on the European Small Claims Procedure, two EU regulations should be highlighted, as they offer national procedures that have a significant impact on enforceability in another Member State:

1. **The Regulation (EC) No. 655/2014 of 25 May 2014 establishing a European Account Preservation Order (EAPO)**
  - The EAPO Regulation aims to facilitate cross-border debt recovery in civil and commercial matters. It allows creditors in an urgent need for protective measures to freeze some or all of the funds on cross-border bank accounts of their debtors.
  - The EAPO Regulation allows creditors to preserve funds in bank accounts under essentially the same conditions in all Member States. The EAPO would be issued in an ex parte procedure, that is, without the debtor's knowledge.
  - The creditor can apply for the EAPO prior to obtaining a judgment on the merits of the case or when he has already obtained a judgment, court settlement or authentic instrument requiring the debtor to pay the creditor's claim.
  - Note that in a Member State only a seizure of bank accounts held outside that Member State can be requested for under the EAPO. Seizures on bank accounts in the Member State where the seizure is sought should be done by the judicial proceedings of that Member State.
  - Because the actual seizure must be done via the local procedural rules of the Member State where the bank account is held, it might be more appropriate to obtain the seizure in the Member State concerned. Moreover, the EAPO provides for information sharing on the bank accounts held in the Member States. As most of the Member States have no database available, this impacts the efficiency of this tool. For all those reasons, input from a local counsel will be necessary before starting the seizure procedure under the EAPO.
2. **The Regulation (EC) No. 1896/2006 of 12 December 2006 creating a European Order for Payment (EOP) procedure**
  - The EOP Regulation provides for a simplified, quick and cost-efficient way for cross-border debt collection and claims for payment.
  - The EOP Regulation applies to uncontested claims for payment in both civil and commercial matters. The EOP applies to claims whereby at least one of the parties resides in a Member State different from the Member State where the application for the EOP is made.
  - The application for the EOP is based on a standard form, which is attached to the EOP Regulation. The court will examine whether the conditions have been met, e.g. the cross-border nature of the claim and the jurisdiction of the court. If the conditions have been met, an EOP will be issued within thirty days following the application.
  - The EOP will be automatically recognised and enforceable in other Member States. The EOP will be served upon the debtor according to the procedural rules of the Member State of the debtor, after which the debtor has 30 days to file a statement of opposition.
  - In case of an opposition, ordinary civil proceedings before the courts of the Member State in which the EOP was issued must be started.
  - This tool is only effective, if the debt is indeed uncontested. As the opposition proceedings equals ordinary court proceedings on the merits, the application of this instrument might slow down the recovery process.
  - Therefore, consideration on the strategy must be given before using the EOP instrument.

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## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

There is no asset registrar or database in Austria. The following tools are, however, available:

- Edict database (Insolvency database): Certain court decisions, e.g. compulsory auctions in regard to immovable property or the institution of bankruptcy proceedings, get publicly

announced via edict. The main decisions concerning personal insolvency and compulsory auctions are publicly available on the internet ([www.edikte.justiz.gv.at](http://www.edikte.justiz.gv.at)).

- For real estate, an excerpt from the land registry (based on the domicile of your debtor) provides you with an overview of the real estate relating to which the debtor has any right in rem and whether mortgages are vested on the property.

- Since 2009, lawyers do not have access to the execution registry anymore due to data protection issues. Therefore, an overview of all the executory seizures that have already been made on the assets of the debtor is no longer accessible.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

Generally, all assets owned by the debtor are seizable: moveable assets - including shares, bank accounts and third-party claims - and real estate. In some instances, such as religious assets or goods that are necessary to meet basic needs for individual persons, are specifically excluded by law.

Execution to seize (§ 370 EO): The seizure of money claims is possible on the basis of final judgments, court orders in non-adversary proceedings and payment orders of domestic civil court orders which are not yet enforceable, under certain conditions and upon request. It must be granted to the court that, without this, the collection would be considerably more difficult or frustrated. The available means of execution are limited to the seizure of movable goods, the implementation of a lien in the land registry, the sequestration and the seizure of third party claims.

Besides, one can request an interim injunction, if an execution to seize is not possible according to law.

### 3. What type of claims can be secured with a conservatory seizure?

Execution to seize: All money claims, irrespective their origin, that are certain, due and payable. Normally, one cannot request for a conservatory seizure to secure a future claim, i.e. a claim that is not yet due. Though, it is possible to seize undue claims for support or undue annuities based on personal injuries together with the executory seizure of already due claims, as long as those claims will be due within a one-year's period of time.

Interim injunctions: Not limited to money claims, but can only be requested insofar the creditor is not able to start the ordinary execution proceedings in order to seize the assets of the debtor.

### 4. What about the urgency requirement?

The creditor must demonstrate that, in the absence of the seizure, the recovery of his claim is seriously jeopardized. One case of application that is explicitly mentioned by law is if the court order had to be enforced in another state in order to ensure recovery. This does not apply to EU member states or states within the Lugano-Treaty.

In some cases (§ 371 EO) one does not have to substantiate the urgency requirement at all. The same applies to creditors who deposit a security in the amount set by the courts.

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

A request, setting out the claim and urgency requirement and including all documentary evidence, must be filed to the competent court. The Seizure Judge / Law Enforcement Officer must decide as fast as possible. The requesting party has to compensate the proceedings' costs in the first place.

### 6. Are there any language requirements?

The request, the documentary evidence and everything has to be in German language. If the documentary evidence is in another language, a translation of the document must be included.

### 7. Is it required to start proceedings on the merits?

It is not legally required that proceedings on the merits (at the time of the conservatory seizure) are already initiated by the requesting party. Nevertheless, the requesting party has to define the time frame that should be covered by the interim injunction requested.

final notice to the debtor. Depending on the means of execution, the bailiff can enforce the execution within around 2-4 weeks after the opponent was notified.

## Executory Seizure

### 8. How is a payment order enforced?

An executory seizure requires an enforceable title, such as a judgment on the merits. A judgment from a Member State of the EU is enforceable

within the EU without any exequatur proceedings being required.

The executory seizure is performed by a bailiff. Before proceeding with the executory seizure, the bailiff will serve a

## Recovery of Uncontested Claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

In addition to the procedure provided by the EOP Regulation, it is possible under Austrian law to recover uncontested monetary claims that are due and payable, without legal

proceedings being necessary. If the debtor does not (timely) contest the claim, the payment summons obtains legal force and the creditor is able to proceed with executory seizures.

# AUSTRIA

**Contact**  
Siemer-Siegl-Füreder  
Vienna  
[www.ssf-law.at](http://www.ssf-law.at)

**GERALD GRIES**  
Partner | Head of Litigation  
T: +43 1 512 1445  
E: [gries@ssf-law.at](mailto:gries@ssf-law.at)



## Asset Tracing

1. **What kind of information on the assets is publicly available? How is it obtained?**

There is no asset registrar or database in Belgium. The following tools are, however, available:

- Central Database of Reports: a database with an overview of all the

conservatory and executory seizures that have already been made on the assets of the debtor.

- For real estate, an excerpt from the land registry (based on the domicile of your debtor) and from the mortgage registry provides you with an overview of the real estate relating to which the debtor has any

right in rem and whether mortgages are vested on the property.

It must be noted that as per the Belgian Civil Code, the party that possesses moveable goods is deemed to be the owner.

## Conservatory Seizures

2. **What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?**

All assets owned by the debtor: moveable assets - including shares, bank accounts and third-party claims - and real estate. In some instances, such as some assets from government bodies, or goods necessary to provide in basic needs for consumers, are specifically excluded by law.

3. **What type of claims can be secured with a conservatory seizure?**

All claims, irrespective their origin, that are certain, due and payable. One cannot request a conservatory seizure to secure a future claim, i.e. a claim that is not yet due.

4. **What about the urgency requirement?**

The creditor must demonstrate that in the absence of the seizure, the recovery of his claim is seriously jeopardized.

In practice, Courts already accepted as evidence of urgency:

- The amount of the claim is (very) high in relation to the financial situation of the debtor;
- There are indications that the debtor only has assets that can easily be transferred or moved, e.g. the debtor has no real estate, and thus limits (the possibility to ensure) the future debt recovery.
- The seizure might not be allowed if the creditor has not taken any timely initiative to secure his claim, and thus has created the urgency himself.

5. **What is the procedure to obtain a seizure? What is the typical time frame?**

A unilateral ("ex parte") petition, setting out the claim and urgency requirement and including all documentary evidence, must be filed with the competent Seizure Judge.

The Seizure Judge must decide within 8 calendar days following the filing of request. If the judgment is positive,

it must then be served by a bailiff to actually effectuate the seizure.

For third party seizures (e.g. on bank accounts), it is not necessary to obtain a prior authorization from the judge. The bailiff can perform the seizure, based on exhibits (e.g. uncontested invoices or a notice of default).

6. **Are there any language requirements?**

The petition, the documentary evidence and the notifications by the bailiff should be in Dutch or French, depending on the competent court. If the documentary evidence is in another language, a translation of the document must be included.

7. **Is it required to start proceedings on the merits?**

Although starting proceedings on the merits (at the time of the conservatory seizure) is not a legal condition, some Seizure Judge imposes the creditor to do so within a certain time frame (mostly 1 month) as a condition to maintain the seizure.

## Executory Seizure

8. **How is a payment order enforced?**

An executory seizure requires an enforceable title, such as a judgment on the merits. A judgment from a Member State of the EU is enforceable

within the EU without any exequatur proceedings being required.

The executory seizure is performed by a bailiff. Before proceeding with the executory seizure, the bailiff will serve

a final notice unto the debtor to pay within one month. If the debtor does not pay the total amounts due within one month, the bailiff will proceed with the sale of the attached goods to cash the claim.

## Recovery of Uncontested Claims

9. **Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?**

In addition to the procedure provided by the EOP Regulation, it is possible under Belgian law to recover

uncontested monetary claims that are due and payable via a bailiff, without legal proceedings being necessary. The bailiff must be instructed to recover the uncontested claim by an attorney-at-law, who will act as a first judge to determine the uncontested nature of the claim.

If the debtor does not (timely) contest the claim or does not respect the payment terms that were agreed upon, the bailiff will confirm this in a declaration, which can be declared enforceable, i.e. an enforceable title, upon request of the bailiff and can be used to proceed with executory seizures.

## Contact

Lydian  
Brussels, Antwerp and Hasselt  
www.lydian.be

**HUGO KEULERS**  
Partner | Commercial & Litigation  
T: +32 11 26 00 40  
E: hugo.keulers@lydian.be

**YVES LENDERS**  
Partner | Commercial & Litigation  
T: +32 3 304 90 08  
E: yves.lenders@lydian.be



## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

The following registers provide public information on assets:

- Property Register. Contains information on ownership and other in rem rights, some real estate lease agreements, mortgages, court claims regarding in rem rights, certain documents regarding inheritance rights and others;

- Commercial Register. Contains information about companies and sole traders. Attachments on company shares or registered pledges on company shares or company's enterprise are publicly available;
- Central Register of Special Pledges. Contains information about registered pledges on movables, receivables, machinery and equipment, aggregates;
- Central Depository. Contains information about dematerialized shares, including registered pledges on them;

- Patent Office. Contains information about industrial property rights;
- Public Procurement Register – contains information whether the debtor is a contractor under a public procurement agreement;

In addition, the following information could be obtained as well: participation in EU-funded programmes; pending enforcement procedures against a company; pending and closed court proceedings with the participation of a particular company / natural person, although some limitations apply.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

All assets owned by the debtor - moveable assets, shares, bank accounts, receivables from third parties, industrial property, can be subject to a conservatory seizure. Some assets owned by government bodies, municipalities and some medical institutions, as well as assets necessary to provide for the basic needs of natural persons, are specifically excluded by law.

### 3. What type of claims can be secured with a conservatory seizure?

All kinds of claims, irrespective of their origin.

### 4. What about the urgency requirement?

The law prescribes such a requirement. Courts, however, tend to assume that the requirement is met unless otherwise indicated by the creditor's statements and the presented written evidence.

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

A petition is filed with the court. The judge shall issue a decision within the same day – in practice, it usually takes a day or two.

Payment of a monetary guarantee (security) to the court's deposit bank account is usually a pre-condition for allowing the seizure. Once the guarantee is paid, the court will issue a security order. The creditor must present the

order to the bailiff for enforcement. Depending on the measure allowed by the court, enforcement may be fulfilled either by the bailiff, or by the Registry Agency or another competent authority. The debtor is notified of the seizure by the bailiff or by the court after the seizure has been effected.

### 6. Are there any language requirements?

All documents must be in Bulgarian. If a document is drafted in another language, a translation into Bulgarian must be provided.

### 7. Is it required to start proceedings on the merits?

Yes, it is. The court determines the term within which the claim on the merits must be filed. The term could not be longer than one month as of allowing the seizure.

## Executory Seizure

### 8. How is a payment order enforced?

An executory seizure requires an enforceable title, such as a judgment on the merits, a payment order issued according to a special procedure

(see below), a court agreement, etc. Judgments of second instance courts are enforceable as a rule. A judgment issued in an EU Member State is enforceable within the EU without any exequatur proceedings being required.

The executory seizure is performed by a bailiff. Seizure of assets can be effected before the debtor has been served the notice for voluntary payment.

## Recovery of Uncontested Claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

A court intervention is necessary in any case. Nevertheless, there is a simplified court procedure designated for uncontested claims – the payment order procedure. It allows a creditor to

file with the court a petition for issuing a payment order against the debtor. If the petition is supported by certain documents prescribed by law, the court will issue an order which is immediately enforceable. The debtor will be notified by the bailiff who enforces the order. If the petition is not supported by such documents, the court will still issue a payment order and serve it to the debtor; but this order will not be

enforceable unless the debtor fails to contest it.

In both cases the debtor will have the chance to contest the claim. If the claim is contested, the creditor must establish its existence and amount in a regular court procedure initiated within a specific term. Otherwise, the enforcement procedure will be terminated.

# BULGARIA

## Contact

Dimitrov, Petrov & Co.  
Sofia  
www.dpc.bg

### ENCHO SIMEONOV

Senior Associate | Commercial Litigation  
T: +359 2 421 42 01  
E: encho.simeonov@dpc.bg



## Asset Tracing

1. **What kind of information on the assets is publicly available? How is it obtained?**

For physical persons there is no asset registry as such. However after commencement of legal action searches of the Lands registry may be made by filing an application with the District

Lands Registry or the Central Lands Registry.

For legal persons (private companies, public companies, partnerships and business names / Joint Ventures a search may be conducted at the Registrar of Companies. A short form search showing shareholders, directors, secretaries, and registered office

together with changes relating to the same may be conducted on line. A full search comprising of all the above plus audited accounts for companies may be carried out at the offices of the Registrar of Companies by prior appointment.

All the above searches relate only to legal persons.

## Conservatory Seizures

2. **What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?**

All assets owned by the debtor, including: moveable assets, shares, bank accounts, third-party claims and real estate. In some instances, such as some assets from government bodies, such as the motor vehicles used by Ministers, Works of Art etc are excluded by law.

seizure or restraint of assets is applied for on an ex parte basis.

Additionally all ex parte applications must show that there is a serious issue to be tried, that the applicant has good prospects of success and that unless the interim order is granted there is a real possibility that justice will not be administered – e.g. that assets may be hidden or dissipated and thereby defeat execution.

3. **What type of claims can be secured with a conservatory seizure?**

All claims, irrespective their origin, that are certain, due and payable. Under certain circumstances, future claims (i.e. claims that are not yet proven to be due) can also be secured with an interim order (injunction) or a mareva injunction in the case of assets that may be removed from the jurisdiction.

5. **What is the procedure to obtain a seizure? What is the typical time frame?**

An ex parte or by summons application must be made in the District Court that has jurisdiction. These are made contemporaneously with the filing of a legal action or another originating process. They are not permitted by way of a mere petition requesting only the injunction / seizure up to the date of conclusion of the main action.

4. **What about the urgency requirement?**

An urgency requirement exists where an application for a conservatory

In urgent cases the judge may give leave for the matter to come before him on the same day and may issue an interim order which is returnable within three or four working days so as to allow the

respondent to show why the injunction should not stand.

An ex parte application is made upon affidavit which must make a full and frank disclosure of all relevant facts both for and against the application and show that there is a serious issue to be tried, that the applicant has good prospects of success and that unless the interim order is granted there is a real possibility that justice will not be administered – e.g. that assets may be hidden or dissipated and thereby defeat execution.

6. **Are there any language requirements?**

The proceedings must be in an official language. The official languages are Greek or Turkish. Exhibits may be in English which is widely understood by the judges but the court may request that an exhibit that is not in an official language should be translated into an official language.

7. **Is it required to start proceedings on the merits?**

Yes see above.

## Executory Seizure

8. **How is a payment order enforced?**

An executory seizure requires an enforceable title, such as a judgment on the merits. A judgment from a Member State of the EU is enforceable within the EU in the same manner

as a judgment in Cyprus is enforced. A foreign judgment or arbitral award is enforced by application for the recognition and enforcement of the foreign judgment or award.

The executory seizure is performed by

a court bailiff. The judgment creditor will issue a writ demanding payment or seizure of goods to the value of the judgment and the Bailiff will collect upon the writ. Goods seized by bailiffs are sold at public auction.

## Recovery of Uncontested Claims

9. **Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?**

It is not possible under Cyprus law to recover uncontested monetary claims

that are due and payable otherwise than through a court bailiff. Therefore, legal proceedings culminating in the issue of a writ are necessary.

A contractual right to collect e.g. in the case of unconditional / without

contestation bank guarantees / share pledge agreements or mortgages can be collected in the circumstances indicated by the underlying contract / agreement / instrument.

# CYPRUS

## Contact

Ioannides Demetriou LLC  
Nicosia  
www.idlaw.com.cy

**ANDREW DEMETRIOU**  
Director  
T: +357 22 022 999  
E: a.demetriou@idlaw.com.cy

**CHRISTINA IOANNIDOU**  
Director  
T: +357 22 022 740  
E: c.ioannidou@idlaw.com.cy



## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

Basic information on the assets of individuals is available from several public registers. Requests for detailed information contained in some public registers are subject to a charge in accordance with the valid legislation.

- Cadastre of Real Estates – it is possible to use this register to verify the real estate owners, encumbrance with collateral or other limitations. If a seizure of real estate is imposed, it is possible to use this register to determine basic information regarding the debt being recovered and the bailiff. Detailed information from this register is subject to a charge.
- Commercial Register – contains information on whether a certain individual is a partner / shareholder in

a company or a member of its board of directors; whether the individual's share is subject to distraint or collateral. All information from this register is provided free of charge.

- Insolvency Register – contains information on individuals and companies for which declaration of insolvency was filed. All information from this register is provided free of charge.
- Industrial Property Office – contains information on the owners of rights for registered trademarks, industrial designs, and patents. Majority of useful information from this register is provided free of charge.
- Central Register of Enforcements – contains information on individuals whose assets were subjected to distraint. All information from this register is subject to a charge.

- Notarial Register of Collaterals and the List of Documents regarding the Marital Property Regime – contains information on the right of lien for assets and rights other than immovable assets and rights and information on deeds by virtue of which the spouses alter the statutory rights and duties pertaining to community property. All information from this register is subject to a charge.

In addition to the above registers, information on the assets and solvency of individuals can also be obtained from credit bureaus maintained by banks, insurance companies and other financial institutions. However, this information is generally subject to a charge and in most cases, provided exclusively to members who participate in the creation or administration of the register.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

The conservatory seizure can limit disposal of any part of the debtor's assets or impose an obligation regarding the same if there are concerns that enforcement of the creditor's claims may be compromised in the future by distraint. The conservatory seizure can only be used for assets or rights that could be subject to distraint, and in a reasonably necessary extent. The conservatory seizure cannot be generally used to prohibit debtors from disposing of all of their assets.

A court of law can impose necessary limitation on individuals other than the debtor if this is reasonable (e.g. on a bank to limit the disposal of money on the debtor's account).

### 3. What type of claims can be secured with a conservatory seizure?

All creditors' claims can be secured this way.

### 4. What about the urgency requirement?

At present, the urgency requirement is an essential prerequisite for the court of law to award the entitlement for the costs of proceedings to the plaintiff if successful. The legislation specifies that it is sufficient for the plaintiff to document during the proceeding that an urgency requirement was sent to the debtor at least seven days prior to filing a lawsuit.

Sending an urgency requirement before the commencement of the enforcement is not necessary.

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

Prior to filing an application for conservatory seizure, the plaintiff must pay a court fee and give security to the court's bank account amounting to CZK 10,000, or CZK 50,000 in the case of litigation between entrepreneurs, as an indemnity for costs caused by the conservatory seizure. If the judge comes to the conclusion that the security is evidently insufficient for the

compensation of damage, the judge may order an increase of the amount beyond the statutory limit. The application for a conservatory seizure is decided by the court of law without undue delay, usually within two days. The debtor learns about the ordering of a conservatory seizure from the court ruling. The order for a conservatory seizure is enforceable upon the delivery to the liable party.

### 6. Are there any language requirements?

All deeds and documents must be in Czech.

### 7. Is it required to start proceedings on the merits?

Yes; if a lawsuit is not filed at the time of filing the application, the court of law will, together with issuing the conservatory seizure, order that the plaintiff file a lawsuit within the time limit specified by the court, or the court can limit the validity of the conservatory seizure.

## Executory Seizure

### 8. How is a payment order enforced?

As soon as the payment order or the judgment of court becomes legally effective, the court of law will indicate this fact on the decision in a form of a schedule. If the

debtor fails to pay or fails to satisfy the judgment voluntarily, then it is possible to commence recovery of the obligations through distraint. The creditor appoints a bailiff from a list and files an application for the bailiff's authorisation by the court of

law. The bailiff then independently carries out all necessary actions in order to secure the debtor's assets and enforcement of the debt or satisfaction of the obligations in accordance with the payment order or the judgment of court.

## Recovery of Uncontested Claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

The creditor may conclude an agreement with the debtor in a form of a notarial deed, by virtue of which the debtor undertakes to redeem the debt within a certain time limit, and, at the same time, agrees that this notarial deed consequently become powers

of distress leading to distraint if the debtor fails to meet the obligation duly and in time. Such an agreement by and between the creditor and the debtor is the only possibility for the creditor to enforce the debt without any participation of a court of law.

If the plaintiff's claim is supported by deeds that attest the existence of the debt, and if the court of law does not question the authenticity of the deeds, a payment

order can be issued which, however, must be delivered to the debtor by the court. If the court fails to deliver the payment order or if the debtor submits a statement of opposition against it, the court shall annul the payment order and start court proceedings regarding this matter. In practice, the payment order is annulled in most cases.

# CZECH REPUBLIC

## Contact

Tríska & Žák  
Prague  
www.triskazak.cz

### JIRI ZAK

Partner  
T: +420 221 105 206  
E: jiri.zak@aktz.cz

### ZBYNEK HAVLIK

Partner  
T: +420 221 105 206  
E: zbynek.havlik@aktz.cz





# DENMARK

## Contact

Brinkmann Kronborg Henriksen  
Copenhagen  
www.bkhlaw.dk

### KARSTEN THOMAS HENRIKSEN

Partner | Dispute Resolution  
T: + 45 20 93 99 40  
E: kth@bkhlaw.dk

### THOMAS SMED

Partner | Dispute Resolution  
T: +45 24 29 44 00  
E: ts@bkhlaw.dk

## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

There is no asset registrar or database in Denmark. The following tools are, however, available:

- For real estate, an excerpt from the land registry (based on the domicile of the debtor) can be obtained online on the Danish Registration Court's website. The excerpt provides an overview of the real estate, its value as deemed by the tax authorities

and purchase value, and whether mortgages are vested on the property.

- For motor vehicles, an excerpt from the vehicle registry can be obtained online on the Danish Registration Court's website (based on the name and birthdate / business registration number of the debtor). The excerpt provides information about the car brand, model and registration number as well as any registered charges.
- If the debtor is a legal entity, it will likely be obliged to publicize its annual report online on the Danish Business

Authority's website. The annual report can be reviewed for an insight of the debtor's financial assets. The degree of detail in the annual report depends on the size of the legal entity.

- For other financial information about the debtor, the personal registry can be reviewed online. In the registry, it is possible to gather information about, e.g. floating charges for legal entities, and prenuptial agreements for natural persons.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

All assets owned by the debtor are subject to a conservatory seizure: tangible assets, including real estate, machinery and cash, and intangible assets, including patents, trademark and goodwill. Some assets such as ships and planes are specifically regulated by law. If the debtor is a natural person, assets cannot be seized to an extent that would deprive the debtor of basic needs for him or her or their household. Real property is always subject to a conservatory seizure. The same rules apply in regards to executory seizures.

### 3. What type of claims can be secured with a conservatory seizure?

All monetary claims and claims that can be converted into monetary claims can be secured with a conservatory seizure. It is not possible, however, to secure a claim if it likely does not exist.

### 4. What about the urgency requirement?

The creditor must demonstrate that in the absence of the seizure, the opportunity for recovery of his claim is materially worsened.

The condition is usually satisfied in the following instances:

- The debtor intends to relocate to another country for an indefinite period;
- The debtor undertakes unusual realizations of his assets or unusual transactions; and
- The debtor informs or hints that they will hinder realization of the creditor's claim.

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

A written petition setting out the claim, factual circumstances and urgency requirement and including the necessary documentary evidence, must be filed with the competent bailiff court.

The bailiff court may require that the creditor post security for any damages that the debtor would suffer as a

consequence of the conservatory seizure, including a wrongful conservatory seizure. A security will often be required if the creditor's claim is not fully proven.

The debtor will usually be notified of the time and place for the proceedings. The bailiff court may decide to complete the proceedings without notifying the debtor mainly if the creditor's opportunity for recovery is materially worsened by such notification.

### 6. Are there any language requirements?

The petition must be in Danish. The bailiff court can decide to accept documentary evidence in another language but will usually require a translation.

### 7. Is it required to start proceedings on the merits?

Yes. A lawsuit must be filed within a week after the conservatory seizure. If the lawsuit concerning the claim is to be filed with a foreign court, the deadline is two weeks, and a similar lawsuit must be filed in Denmark as well within this time.

## Executory Seizure

### 8. How is a payment order enforced?

An executory seizure requires an enforceable title, such as a judgment on the merits. A judgment from an EU Member State is enforceable within the EU without any exequatur proceedings being required.

The executory seizure is performed by the bailiff court. The creditor must file a petition for executory seizure. The bailiff court will hereafter convene a meeting on which executory seizure will be registered in the debtor's asset(s). The executory seizure entitles

the creditor to have the asset(s) sold at an auction and receive the proceeds. A petition for an auction can be made if the debtor has not paid the creditor or appealed the executory seizure within four weeks after the executory seizure was made.

## Recovery of Uncontested Claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

Claims of up to DKK 100,000 (approximately €13,500) (exclusive interests) may be recovered directly

with the bailiff court without prior proceedings at the civil courts. Petition must be submitted to the relevant bailiff court on a special form. It is a condition that the debtor be given 10 days to pay the debt before the petition is submitted.

The bailiff court will serve the petition

to the debtor who will be given 14 days to contest the claim. If the debtor does not (timely) contest the claim, the bailiff court will confirm this in a declaration, which can be declared enforceable, i.e. an enforceable title, upon request of the bailiff and can be used to proceed with executory seizures.





# ENGLAND AND WALES

## Contact

Howard Kennedy LLP  
London  
www.howardkennedy.com

### JAMES WINGFIELD

Senior Associate | Litigation  
T: +44 20 3755 5778  
E: james.wingfield@howardkennedy.com

## Asset Tracing

1. What kind of information on assets is publicly available? How is it obtained?

There are no general asset registers or databases in England or Wales. There are however resources available to help determine what assets an individual holds.

In relation to real estate, searches can be undertaken through the Land Registry to identify properties owned and any charges, including mortgages, registered against them. A bankruptcy search can also be carried out against individuals through the Land Registry website.

A search of Companies House can provide information on an individual's

shareholdings, as well as general information regarding the financial position of companies and other registered entities.

To determine whether a debtor has any other outstanding or previous judgments or fines issued against them, a search of a register may be made.

## Conservatory Seizures

2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

England and Wales have opted out of the EAPo Regulation (EU Reg. 655/2014). However, it is possible to apply for an asset freezing injunction, known as a freezing order, from the courts in England and Wales.

In principle, all types of assets can be subject to a freezing order. The assets should not be perishable, but may be intangible. Examples of tangible assets include bank accounts, shares, motor vehicles, and land; and an example of intangible assets is goodwill. The frozen assets may be jointly owned, or may be held by a third party for the benefit of the debtor.

Freezing orders should not cause the respondent to cease trading. Corporate respondents should be permitted to pay their employees and trade creditors. Individual respondents should be permitted to meet their living expenses and reasonable legal costs.

A freezing order is not a form of security and does not provide any proprietary right to the frozen assets. Other creditors of the debtor may enforce judgments against the frozen assets.

3. What type of claims can be secured with a conservatory seizure?

The applicant must have a cause of action, that is, an underlying legal or equitable right. The possibility of a future cause of action is not sufficient.

4. What about the urgency requirement?

The applicant must prove there is a "risk of dissipation" – namely that either: (i) there is a real risk that a judgment or award will go unsatisfied, in the sense of a real risk that, unless restrained by a freezing order, the respondent will dissipate or dispose of his assets other than in the ordinary course of business; or (ii) that unless the respondent is restrained by a freezing order, assets are likely to be dealt with in such a way as to make enforcement of any award or judgment more difficult, unless those dealings can be justified for normal and proper business purposes.

It is therefore important for an applicant to act promptly, as the court will take into account any undue delay in exercising its discretion whether or not to grant a freezing order.

5. What is the procedure to obtain a seizure? What is the typical timeframe?

A freezing order is obtained by way of application supported by written evidence in the form of an affidavit. As an application for a freezing order is generally in the first instance made without notice to the respondent, the applicant must disclose all matters that are material to the court in deciding whether to grant the order.

An undertaking in damages is generally required to be given to the respondent by the applicant.

In urgent situations, a without notice freezing order may be obtained quickly; potentially on the same day by telephone to the judge in the most extreme cases.

6. Are there any language requirements?

Any foreign language document on which reliance is placed in the application will need to be translated into English.

7. Is it required to start proceedings on the merits?

Yes, although it is not necessary for proceedings to have been issued at court if an undertaking is given to do so shortly thereafter.

## Executory Seizure

8. How is a payment order enforced?

An executory seizure, known in England and Wales as execution, requires an enforceable judgment and gives court bailiffs the authority to take goods from the debtor's home or business.

A request is submitted to the appropriate court to enforce the

judgment or order and is assigned to a bailiff as an enforcement officer. The bailiff will then usually send the debtor a letter stating that a warrant has been issued and that they must pay within seven days. If the debtor pays, the court will send the money to the applicant. If the debtor does not pay, the bailiff will call at the address

provided within 15 days of the warrant being issued and identify goods which can be sold. The bailiff can only take goods which belong to the defendant, or are jointly owned.

Other forms of enforcement are available.

## Recovery of Uncontested Claims

9. Is it possible to recover uncontested claims and to obtain an enforceable title without a court intervention?

Other than under the EOP Regulation, there is no procedure in England and Wales to recover uncontested claims without a court intervention.





# FINLAND



## Contact

Lexia  
Helsinki  
www.lexia.fi

**KENNETH SVARTSTRÖM**  
Counsel | Attorney at Law  
T: +358 10 4244 228  
E: kenneth.svartstrom@lexia.fi

## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

There is no general asset register or database in Finland. The following tools are, however, available:

- For real estate, an excerpt from the Land Register (based on the domicile of the debtor) can be obtained online. The excerpt provides an overview of the real estate, its size and ownership

as well as mortgages and their amount.

- For motor vehicles and vessels / boats there are also specific registers which provide information on ownership, model, registration, brand and date of use.
- If the debtor is a legal entity, annual reports should be available at the Trade Register (the law requires that they are handed in annually but some companies neglect this duty),

floating charges of companies are also registered in a public register.

- One can also obtain information on the creditworthiness of natural persons or companies through registers upheld by private companies. Such registers gather information from the aforementioned public registers, courts and execution authorities etc., prenuptial agreements are also registered by the local magistrates.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

All assets owned by the debtor can be subject to conservatory seizure. This includes both tangible assets, such as real estate, machinery, cash, vessels and vehicles etc. and intangible assets such as patents, trademarks etc.

If the debtor is a natural person, assets cannot be seized to an extent that would deprive the debtor of basic needs for the debtor's household. The same rules apply in regards to executory seizures.

### 3. What type of claims can be secured with a conservatory seizure?

All monetary claims and claims that can be converted into monetary claims can be secured with a conservatory seizure. The right to a specific object can also be secured.

The seizure requires that the applicant / creditor can prove its claim to a certain degree of likelihood. For normal monetary claims degree of likelihood is somewhat low (seizure is granted as long as the claim is not clearly

unfounded based on evidence or the law).

### 4. What about the urgency requirement?

The applicant creditor must argue that there is a risk that its claim is endangered by the actions of the debtor (assets are to be removed abroad or otherwise getting rid of). The evidentiary requirement here is not high; usually a claim of danger is enough.

Ex parte orders without hearing the debtor are possible in urgent matters.

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

A written application setting out the claim, factual circumstances and urgency requirement, including the necessary documentary evidence, must be filed with the competent local district court.

If the application is accepted, the court renders the order and thereafter the order still needs to be executed by the enforcement authority for it to be effective.

The enforcement authority will require that the creditor posts a security for any damage that the enforcement of

the order might cause the debtor. The amount of the security usually corresponds in some way to the amount seized. Only exceptionally can a creditor be exempt from posting a security (e.g. if it would be unreasonable).

In urgent cases, a seizure can be obtained very quickly within a couple of hours to a couple of days depending on the complexity of the case.

### 6. Are there any language requirements?

The applications to the court or to the enforcement authority must be in Finnish or Swedish, which are the official languages in Finland. Evidence can be submitted in other languages as well (usually English). The court can demand that such evidence is translated to Finnish or Swedish.

### 7. Is it required to start proceedings on the merits?

Yes. Main proceedings must be filed within a month after the final seizure decision of the court (not the ex parte order; if such is rendered).

## Executory Seizure

### 8. How is a payment order enforced?

An executory seizure requires an enforceable title, such as a judgment on the merits. A judgment from an EU Member State is enforceable within the EU without any exequatur proceedings being required.

The executory seizure is performed by the enforcement authority. The creditor must file an application for executory seizure. The enforcement authority will thereafter proceed with seizing any assets of the debtor that can be found in order to cover the creditor's receivable. The executory

seizure entitles the creditor to have the asset(s) sold at an auction and receive the proceeds.

A seizure does not provide any priority if the debtor is declared bankrupt as the assets of the debtor are turned over to the bankruptcy estate.

## Recovery of Uncontested Claims

### 9. Is it possible to recover uncontested claims and to obtain an enforceable title without a court intervention?

No. Normal monetary claims need a court order before they can be enforced. Some claims, such as taxes and other governmental charges or

fees are directly enforceable, which means they can be collected by way of enforcement without a court order.



## Asset Tracing

1. **What kind of information on the assets is publicly available? How is it obtained?**

There is no asset register or database in France. The following tools are, however, available:

- For real estate matters, an excerpt from the land registry (based on the residency of your debtor) and from the mortgage registry provides you with an overview of the real estate in respect of which the debtor has rights

and, whether or not, the properties are subject to mortgages.

- Under the provisions of the French Civil Code, the party that possesses moveable goods is deemed to be the owner.

## Conservatory Seizures

2. **What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?**

All assets owned by the debtor: moveable assets, tangible or intangible assets – including shares, bank account and third-party claims – real estate and business capital. In some cases, some assets of government bodies or goods necessary to provide for basic needs (chairs, tables, beds...), are specifically excluded by law.

3. **What type of claims can be secured with a conservatory seizure?**

All claims, provided that they are well-founded.

4. **What about the urgency requirement?**

The creditor does not have to demonstrate any urgency in the debt collection.

He only has to demonstrate a risk to his debt collection.

The indications he can rely on are:

- Default of payment
- Insolvency
- Serious financial difficulties

5. **What is the procedure to obtain a seizure? What is the typical time frame?**

Authorization for a conservatory seizure must be requested from a Court.

The creditor is required to present a petition before a Court.

This request has to be justified by:

- rights and obligations of the parties
- a claim that appears to be founded
- the interim evaluation of the claim
- a threat to the debt collection
- the risk of lawsuits
- and any evidence

The creditor has to deliver a document to the bailiff confirming the grant of the conservatory seizure.

Prior authorization from the Court is not needed when the creditor is already holding:

- an enforcement order
- a court judgment even if not already binding
- a cheque
- an accepted bill of exchange
- a promissory note
- a written lease contract.

The creditor must deliver a document enabling the implementation of a conservatory seizure to the bailiff: either the Court order allowing the conservatory seizure or any of the documents mentioned above.

In the latter case, the conservatory seizure is not required to be made within a limited period of time.

However, when the conservatory seizure results from judicial authorization, the measure must be executed within three months of the Court order.

6. **Are there any language requirements?**

The petition evidence and the notifications by the bailiff have to be in French. If the evidence is in another language, the documents are required to be translated.

7. **Is it required to start proceedings on the merits?**

Even though the introduction of proceedings on the merits is not a condition for a conservatory seizure, the creditor must introduce such a step within a month (in most cases) of the conservatory seizure. Otherwise, the conservatory seizure will be released upon request of the debtor.

## Executory Seizure

8. **How is a payment order enforced?**

An executory seizure requires an enforceable title, such as a judgment on

the merits. A judgment from a Member State of the EU is enforceable in France without any exequatur proceedings being required.

The claim must be certain, of a fixed amount and due and payable.

The executory seizure is performed by a bailiff.

## Recovery of Uncontested Claims

9. **Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?**

French law allows the recovery of uncontested monetary claims that are due via a bailiff without further legal proceedings. Nevertheless, there is no executory force in such a procedure. It can only be used to make an impression

on the debtor and as a more reliable proof of the refusal of the debtor to pay his debts. It is also possible to resort to a collection agency under the same restrictions as mentioned above.

# FRANCE

## Contact

Bignon Lebray  
Paris, Lille, Lyon,  
Aix-Marseille  
www.bignonlebray.com

### JACQUES GOYET

Partner  
T: +33 1 44 17 17 44  
E: jgoyet@bignonlebray.com

### FRÉDÉRIC COULON

Partner  
T: +33 1 44 17 69 37  
E: fcoulon@bignonlebray.com

### JULIEN LECAT

Partner  
T: +33 4 42 66 05 00  
E: jlecat@bignonlebray.com





# GERMANY



## Contact

Arnecke Sibeth  
Munich, Frankfurt, Berlin,  
Dresden  
www.arneckesibeth.com

### ANTON OSTLER

Partner  
T: +49 89 388 08 361  
E: aostler@arneckesibeth.com

### JULIA WIEFEL

Partner  
T: +49 89 388 08 362  
E: jwiefel@arneckesibeth.com

## Asset Tracing

1. What kind of information on the assets is publicly available? How is it obtained?

There is no general public asset register or database in Germany. However,

valuable information can be obtained from the public commercial register ("Handelsregister" containing legal and economic facts about tradesmen and companies) and land register ("Grundbuch" on real estate and

rights regarding it). Besides, economic information may be obtained through private registers like Creditreform (economic information desk and debt collection agency).

## Conservatory Seizures

2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

In general, all movable (cash, vessels, jewelry, etc.) and immovable (real estate and pertaining rights) assets owned by the debtor can be subject to a conservatory seizure.

Exemptions exist, e.g. for items of private persons, which are essential for their work or basic needs.

The same applies for executory seizures.

3. What type of claims can be secured with a conservatory seizure?

Monetary claims or any claim that may become a monetary claim can be secured. A claim under a condition

precedent can be sufficient, as long as it has a present asset value.

4. What about the urgency requirement?

There is an urgency requirement insofar as the applicant has to argue that without the seizure executing a title will be impossible or heavily hindered.

5. What is the procedure to obtain a seizure? What is the typical time frame?

The applicant has to submit a request specifying his claim and the reason for the urgency of a conservatory seizure. No full proof has to be provided but it is sufficient to establish facts from which both may be presumed. The request can be presented to the competent court in writing as well as verbally.

The typical time frame for obtaining a court decision is rather short, usually no more than a few days. From then on you have one month to seize the assets.

6. Are there any language requirements?

The official language used in court is German. It is within the judge's discretion to accept documentation in other languages if it is understood by the court.

7. Is it required to start proceedings on the merits?

Yes, upon request by the debtor the court sets a deadline for the applicant to bring suit.

If this deadline expires to no avail, the debtor can apply for having the conservatory seizure suspended.

## Executory Seizure

8. How is a payment order enforced?

An executory seizure requires an enforceable title, such as a court decision, with an executory clause

as well as service of such title to the debtor. Different ways of enforcement exist, depending on whether moveable, immovable or other assets are the object of the seizure. E.g. the court

would have to be involved in an attachment of bank accounts while a bailiff would carry out a seizure of movable assets (by firstly labelling and then commercializing them).

## Recovery of Uncontested Claims

9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

With the so called "Mahnverfahren" (accelerated court proceedings) an enforceable title can be obtained rather quickly for uncontested claims.

Without court intervention, an enforceable title may be obtained in a notarial deed, where the debtor expressly submits to immediate debt enforcement.



# GREECE

## Contact

Tsibanoulis & Partners  
Athens  
www.tsibanoulis.gr

**MARINA PERRAKI**  
Partner  
T: +30 21 036 75 100  
E: m.perraki@tsibanoulis.gr

**ARIS GOULANDRIS**  
Partner  
T: +30 21 036 75 100  
E: a.goulandris@tsibanoulis.gr

## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

There is no publicly available asset registrar or database in Greece, the following tools are however available:

- As far as real estate property is concerned, a creditor may obtain information on the real estate of the

debtor, the rights in rem and whether mortgages are vested on the property, from the local National Land Registry Offices or from the local Cadastral offices, as applicable. It must be noted, however, that the above information is limited to the territorial scope of the respective office.

- From the General Commercial Registry one may obtain information

on the holdings of the debtor in commercial companies apart from shares listed in the stock exchange and bearer shares in general. Information in relation to the stock exchange shares may be obtained only after an enforcement procedure has been brought against the debtor, through the relevant application to the Central Securities Depository.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

All debtor's assets, whether movable or immovable - including shares, bank accounts and third-party claims - can be subject to a conservatory seizure, regardless if they are held by the debtor or by a third party. Exempt from seizure are goods which are deemed to be absolutely necessary for the basic needs of the debtor and these of his family. Also exempt from seizure may be the working tools and objects which are essential for the debtor's professional activity. The same applies to executory seizure.

Furthermore, objects subject to immediate damage, shares in personal associations, claims of alimony, salaries, pensions or other social benefits as well as insurance benefits and EU subsidizations / grants are also in whole or in part, as applicable, excluded from conservatory seizure. This also applies to executory seizure.

### 3. What type of claims can be secured with a conservatory seizure?

All pecuniary (and convertible to pecuniary) claims due and payable may be secured with a conservatory seizure. Under certain circumstances,

also future or conditional claims can be secured with an interim order.

### 4. What about the urgency requirement?

The creditor must demonstrate either the existence of "imminent risk" threatening the claim or an "urgent situation". This exists typically, as per case law, in the case of deterioration of the debtor's financial state and the risk of alienation from his assets, as indicated from constant imposing of liens on the assets, recent transfers of assets etc.

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

An application shall be filed with the Court secretariat, setting out (i) the requested protective measure, (ii) the likely existence of the claim based on a summary of the facts of the case, (iii) the alleged imminent risk or urgent situation threatening the said right or claim and (iv) the monetary value of the claim.

The petition can be filed either before, during or after the commencement of the proceedings on the merits. There is no typical timeframe provided for the decision on a petition for a conservatory seizure (or protective measures in general). All such petitions

### 6. Are there any language requirements?

The petition, evidence and relevant statements shall be produced in Greek Language. If the documentary evidence is in another language, a translation of the document must be included.

### 7. Is it required to start proceedings on the merits?

If the conservatory seizure petition is filed before the commencement of the main proceedings on the merits, the Court may set a deadline within which the main action needs to be filed. This deadline shall not be less than 30 days. If the deadline lapses without such commencement of the proceedings on the merits, the conservatory seizure is ipso iure lifted.

## Executory Seizure

### 8. How is a payment order enforced?

An executory seizure requires an enforceable title, such as a judgment on the merits or a "payment order" namely a title issued by the Judge under a shorter ex parte procedure for claims proved in total by written documents. After its issuance, the payment order is considered an enforceable title and should be served on the defendant

within two months to be effective. The debtor may lodge an opposition against the payment order within 15 business days from the service. As a general rule, the enforcement procedure is not stayed unless specifically requested with the opposition and ordered by the Court. Based on an enforceable payment order, an executory seizure may be requested.

A judgment from a Member State of

the EU is enforceable within the EU without any exequatur proceedings being required.

The executory seizure is performed by a bailiff. Before proceeding with the executory seizure, the bailiff will serve a final notice unto the debtor to pay within three (3) working days. If the debtor does not pay the total amounts due, the enforcement process shall continue.

## Recovery of Uncontested Claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

Apart from the procedure provided by the EOP and EAPO Regulations, notarised documents may also constitute enforceable titles.



## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

There is no general asset registrar in Hungary in the sense that one could obtain a list of assets another person or entity owns. The following tools are, however, available:

- Database of Annual Financial Reports: companies are obliged to publish their

annual financial reports. The annual reports are publicly available and the notes to the financial statements (which are also to be published) may contain specific information as to what assets a company owns.

- Land registry: a creditor may only search this database to verify if a certain real property is owned by the debtor and if the real property is encumbered with mortgage. A search in the other direction is not

an option. This means that a search which would list the real properties one person owns is not possible. (Court executors may conduct such search though).

- Collateral registry: One can conduct a search as to whether the assets of a company or private individual are encumbered with lien, mortgage, retention of title etc. This will not give an exhaustive list of assets, either.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

All assets owned by the debtor: moveable assets - including shares, bank accounts and third-party claims - and real estate.

Certain assets are exempted from seizure: the purpose of these exemptions is to ensure a certain minimum level of livelihood to the debtor. These include, inter alia, the means which are essential for the debtor to exercise his profession, essential articles of clothing, medicine etc. The same exemptions apply in case of conservatory and executory seizures.

### 3. What type of claims can be secured with a conservatory seizure?

Security measures (such as conservatory seizure) are available to secure claims granted in decisions which are not yet enforceable or the resolution is final and binding, but the relevant payment has not yet become due. In addition, conservatory seizure

may also be applied for in ongoing litigation or arbitral proceedings. In this case, the claimant is required to prove the existence, quantum and the due nature of its claim with an authentic public instrument (a notarial deed) or a private document with full probative force as defined by Hungarian Law.

### 4. What about the urgency requirement?

The creditor must demonstrate that in the absence of the seizure, the recovery of his claim is seriously jeopardized. It is to be noted that the courts in Hungary are very reluctant to order provisional measures and in this respect they tend to be biased in favour of the respondent, even though by law the level of proof is lower than in the litigation itself.

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

A petition to order security measures is to be filed either with the court competent for the execution or with the court where the lawsuit is initiated (if the petition is filed in an ongoing litigation). If the basis for the seizure is

a not yet enforceable court resolution, then the petitions will be decided ex parte, while an oral hearing is to be held, if needed, if the petition is filed in the frame of a pending lawsuit. The petition is to be filed in as many copies as the number of parties involved increased by three. The party requesting the seizure is required to set out the claim and urgency requirement in the petition and attach all documentary evidence.

The court is required to decide within 8 calendar days following the filing of request. This decision of the court is subject to appeal; however, the appeal has no suspensory effect on the enforceability of the court's decision.

### 6. Are there any language requirements?

The petition and the documentary evidence should be in Hungarian. If the documentary evidence is in another language, a translation of the document must be included.

### 7. Is it required to start proceedings on the merits?

Yes.

retained or sell the debtor's assets. Sale of real properties are subject to certain restrictions and are generally allowed only if all other measures were unsuccessful. Once the debtor learns that these executory measures are ordered, he may decide to pay the claim out of his own accord any time.

## Executory Seizure

### 8. How is a payment order enforced?

If an enforceable payment order (see below) or judgment is in place and the respondent failed to comply with the payment deadline set out therein, then the claimant can apply for execution. The court (or the notary issuing the

payment order) will appoint the court executor, who will then be in charge of collecting the payment.

The court executor may cash the claim from the bank account of the debtor, order that a certain part of the payments due to the debtor be

## Recovery of Uncontested Claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

A procedure similar to the one described in the EOP regulation is in place in Hungary. One can file a petition online (or in person at the offices of a notary public) requesting that the

debtor is ordered to pay the money the creditor claims. Notaries are authorized to issue such orders. No evidence is to be filed at this point to substantiate the claim. If the debtor fails to contest the order within 15 days of its receipt, then the payment order becomes legally binding and enforceable. These payment orders have the same legal effect as judgments. (If the debtor does contest

the claim, then the proceeding will convert into a regular lawsuit.)

In addition to the above, if the claim is not only uncontested but also acknowledged in the form of a notarial deed, then this notarial deed is enforceable without a preliminary court proceeding, provided, that such deed contains the minimum information set out by law.

# HUNGARY

## Contact

Kovacs Nora Ugyvedi Iroda  
Budapest  
www.fklaw.hu

### NORA KOVACS

Partner  
T: +36 1 266 9168  
E: nkovacs@fklaw.hu





# IRELAND



**Contact**  
WhitneyMoore  
Dublin  
[www.whitneymoore.ie](http://www.whitneymoore.ie)

**JOHN LYNCH**  
Partner | Head of Litigation  
T: 353 1 611 0000  
E: [john.lynch@whitneymoore.ie](mailto:john.lynch@whitneymoore.ie)

**GERRY CARROLL**  
Partner | Litigation  
T: 353 1 611 0000  
E: [gerry.carroll@whitneymoore.ie](mailto:gerry.carroll@whitneymoore.ie)

## Asset Tracing

1. What kind of information on the assets is publicly available? How is it obtained?

There is no general asset registrar or database in Ireland. The following tools are available:

- Land and Deeds Registries: there are centralised land and deed registries where searches can be conducted against lands to identify owners and whether charges or securities are registered against the properties.
- Companies Office: searches can be undertaken to ascertain if there are

charges registered against assets of a company.

- Credit Bureau: individual credit searches.
- Judgments searches: to ascertain whether judgments have been registered against a person or entity.

## Conservatory Seizures

2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

There is no generally available procedure for seizure of assets in advance of obtaining a judgment. Application can be made to the High Court for injunctive relief to freeze assets if there is available evidence of an attempt to move or dissipate assets with an intention of avoiding a judgment.

3. What type of claims can be secured with a conservatory seizure?

Generally in respect of claims for recovery of sums due and owing.

4. What about the urgency requirement?

The creditor must demonstrate that assets are being moved or dissipated with an intention to avoid a judgment. The court must be satisfied that unless the order is made, the recovery of the claim is seriously jeopardised.

5. What is the procedure to obtain a seizure? What is the typical time frame?

A unilateral (“ex parte”) application on affidavit to the High Court setting out the claim and urgency requirement and including all documentary evidence.

If the court grants the order, that order must be served on all affected parties.

The court will normally give directions in relation to such service.

6. Are there any language requirements?

Proceedings are conducted in English. If any evidentiary documents are in another language, a translation of the documents must be provided.

7. Is it required to start proceedings on the merits?

Yes, proceedings will be commenced by way of summons, detailing the claims being made and the orders being sought from the court.

## Executory Seizure

8. How is a payment order enforced?

Once a judgment is obtained, a number of steps can be pursued to enforce judgment depending on the

circumstances. These include:

- registration and publishing of the judgment,
- using the sheriff to seize assets,

- application for installment order or attachment against earnings order
- registration of a judgment mortgage against land of the debtor
- appointment of a receiver.

## Recovery of Uncontested Claims

9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

Proceedings must be commenced. Where the claim is not contested judgment can be obtained through the court offices, by lodging the necessary application and grounding affidavit. Judgment will issue without further court application.



## Asset Tracing

1. **What kind of information on the assets is publicly available? How is it obtained?**

There is no asset registrar or database in Italy. The following tools are, however, available:

- For real estate, an excerpt from the Land Registry which provides an overview of the real estate relating to which the debtor has any right in rem and whether mortgages are vested on the property;
- For shares or quotas, an excerpt from the Registry of Companies; this

normally enables information to be obtained on positions held within companies (i.e.: director, president, vice-president, etc.).

Private investigators could also be used and are normally retained to provide an “asset dossier” of the debtor.

## Conservatory Seizures

2. **What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?**

All assets owned by the debtor: moveable and immovable. In some instances, such as Public Administration assets or goods necessary to provide basic needs for consumers, assets are specifically excluded. Such rules applies also to executory seizure.

3. **What type of claims can be secured with a conservatory seizure?**

All claims where there is *fumus boni iuris*. It is possible to request a conservatory seizure to secure a future claim, for example a claim subject to a condition precedent.

4. **What about the urgency requirement?**

The creditor must demonstrate “the justified fear of losing the security” of his claim during the time necessary to file and complete an ordinary action ending by a condemnation of the counterparty (*periculum in mora*).

Courts generally accepts as evidence of urgency the following circumstances:

- the financial situation of the debtor is precarious;
- there are indications that the debtor only has assets that can easily be transferred or moved.

5. **What is the procedure to obtain a seizure? What is the typical time frame?**

A unilateral (“*ex parte*”) petition, setting out the claim and urgency requirement and including all documentary evidence, must be filed with the competent Judge.

The petition can be filed either before or after the commencement of the proceedings on the merits. If filed before, the Judge could decide, if requested, by *ex parte* motivated decree, when summoning the opposing party might prejudice the execution of the seizure. In this event, the Judge schedules the hearing for the appearance of the parties within 15 days, assigning a mandatory term to the claimant for serving the petition and the decree.

A hearing at the presence of the parties always takes place prior to the final judgment, which can confirm, modify or set aside the *ex parte* decree, if any, previously issued.

The typical time frame is 2 months from the filing of the petition.

If the judgment is positive, it can be executed by a bailiff. Please note that the judgment can be appealed.

For any kind of seizures it is necessary to obtain a prior authorisation from the judge.

6. **Are there any language requirements?**

The petition and the notifications should be in Italian. If the documentary evidence is in another language, the Judge can, but is not obliged to, appoint a translator. Usually if such language is English, or in any case understandable by the Judge, no appointment is made.

7. **Is it required to start proceedings on the merits?**

Yes, in case of pre-trial petition and if the judgment is positive. The term is assigned by the Judge in the judgment, maximum 60 days. If the proceedings on the merits is not started by such term, the judgment and the seizure are no longer effective.

## Executory Seizure

8. **How is a payment order enforced?**

An executory seizure requires an enforceable payment order.

The executory seizure is performed

by a bailiff. Before proceeding with the executory seizure, a notice to pay within ten days must be notified to the debtor. If the debtor does not pay the total amounts due within ten days, the bailiff will proceed with the executory

seizure. Afterwards the goods attached are sold under the coordination of the Judge of Execution and the creditor is then authorized to receive the proceeds of such sale.

## Recovery of Uncontested Claims

9. **Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?**

No. Only cheques, promissory notes and bills of exchange are, in some circumstances, directly enforceable.

## Contact

Pirola Pennuto Zei e Associati  
Milan, Rome  
[www.piolapennutozei.it](http://www.piolapennutozei.it)

### GABRIELE BRICCHI

Partner | Milan  
T: +39 02 66 99 56 90  
E: [gabriele.bricchi@studiopirola.com](mailto:gabriele.bricchi@studiopirola.com)



## Asset Tracing

1. **What kind of information on the assets is publicly available? How is it obtained?**

There are no general asset registers or databases that are publicly available in Luxembourg.

However, for real estate, article 2196 of the Civil Code provides that anyone is entitled to obtain copy of the acts registered at the mortgage registry, or a certificate if there is no such registered acts.

Moreover, for limited liability companies (i.e. société à responsabilité limitée (S.

à r.l.)) type companies, the registry of trade and companies mentions who the shareholders are.

A bankruptcy search can also be carried out against any Luxembourg companies through the trade and companies register.

## Conservatory Seizures

2. **What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?**

All types of assets that are not perishable can in principle be subject to a conservatory seizure.

However, tangible assets may be subject to a conservatory seizure only if the cause of action is of a commercial nature (article 550 of the New Code of Civil Procedure).

All types of intangible assets such as bank accounts and shares that are held by third parties can be subject to a conservatory seizure according to a specific procedure (articles 693 to 718 of the New Code of Civil Procedure).

Real estate can also be subject to conservatory seizure (articles 809 to 887 of the New Code of Civil Procedure).

Executory seizure can be performed on all type of assets owned by a debtor. However, certain assets are excluded such as basic furniture owned by the debtor i.e. clothing, tables and chairs, are assets that cannot be seized.

3. **What type of claims can be secured with a conservatory seizure?**

In principle all type of claims that are certain, of a fixed amount and due, can be secured with a conservatory seizure.

Tangible assets may nevertheless be secured even if the claim is as of the date

of the seizure, not yet of a fixed amount and if the claim "appears to be certain".

A future claim that is not due cannot be secured with a conservatory seizure.

4. **What about the urgency requirement?**

Urgency is specifically required by article 550 of the New Code of Civil Procedure by any means. The claimant must also prove that without the seizure there is a risk that the tangible assets will be misappropriated by the debtor. In other words, the claimant must prove that he may lose the possibility of obtaining payment (or corresponding value) for his claim.

5. **What is the procedure to obtain a seizure? What is the typical time frame?**

A unilateral petition, setting out the claim and including all documentary evidence, must be filed with the competent Court.

The competent Court takes an order ("ordonnance") in the following days which will either authorise or refuse the seizure.

Such order must be notified by a bailiff to the debtor or the third party seizure (such as the bank) in order to execute the seizure.

An appeal can eventually be introduced by the debtor to oppose the seizure order, or by the claimant if the Court refuses to order the seizure (however this is rather unusual).

The seizure must then be validated through a procedure on the merits under which the debtor will be able to bring his arguments to challenge the seizure. The frozen assets can only be sold or transferred to the claimant once there is an enforceable judgment on the merits against the debtor.

It should be noted that because of the banking secrecy, it is not possible to know the amounts seized on a bank account prior to the enforcement of the judgment on the merits, i.e. at the end of the procedure.

Furthermore, while in principle all the sums that could be held in bank accounts are seized, it is possible for the debtor to request the seizure to be limited to the claim amount.

6. **Are there any language requirements?**

The procedure including the petition must be in French language. However, documentary evidence can be in German, Luxembourgish, or in English. Documentation in other languages are subject to an official translation.

7. **Is it required to start proceedings on the merits?**

Yes, proceedings on the merits to obtain a judgment that is enforceable must be initiated in order to be entitled to sell the assets or to request transfer of the sums seized on a bank account.

## Executory Seizure

8. **How is a payment order enforced?**

An executory seizure requires an enforceable title, such as a judgment on the merits. Under the EU Regulation No 1215/2012, a judgment from a Member

State of the EU is enforceable within the EU without any exequatur proceeding being required.

The executory seizure is performed by a bailiff. Before proceeding with the

executory seizure, the bailiff will serve a final notice on the debtor to pay within 24 or 48 hours, failing to which the bailiff will proceed with the seizure.

## Recovery of Uncontested Claims

9. **Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?**

It is possible under Luxembourg law to obtain a payment order for uncontested claims.

If the amount of the claim is €10,000 or less, the claimant must address a unilateral

request of payment to the competent court, with supporting evidence (invoice and formal notice). The Court will then issue a payment order. If the debtor does not pay the requested amount, nor oppose this order within 15 days, the claimant can request a title that can be enforced by a bailiff. If the debtor opposes the payment order, the Court will schedule a Court hearing and the case

will be pleaded orally. The Court will then render a decision on the merits.

There is a similar procedure for claims above €10,000 which however does not allow the claimant to obtain a judgment on the merits but only an interim order.

## Contact

LG Avocats  
Luxembourg  
www.lgavocats.lu

### STÉPHAN LE GUEFF

Managing Partner  
T: +352 44 37 37 1  
E: slg@lgavocats.lu

### HERVÉ WOLFF

Partner  
T: +352 44 37 37 1  
E: hw@lgavocats.lu



## Asset Tracing

1. **What kind of information on the assets is publicly available? How is it obtained?**

There is no asset registrar or database in the Netherlands. The following tools are, however, available:

- For shares in privately owned

companies, an excerpt from the Chamber of Commerce provides you with information about sole shareholders. No information on shareholders is available when the shares are being held by two or more different holders.

- For real estate, an excerpt from the land registry provides you with an

overview of the real estate relating to which the debtor has any right in rem and whether mortgages are vested on the property.

- It must be noted that as per the Dutch Civil Code, the party that possesses moveable goods is deemed to be the owner.

## Conservatory Seizures

2. **What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?**

All assets owned by the debtor, including: moveable assets, shares, bank accounts, third-party claims and real estate. In some instances, such as some assets from government bodies, or goods necessary to provide in basic needs for consumers, are specifically excluded by law.

3. **What type of claims can be secured with a conservatory seizure?**

All claims, irrespective their origin, that are certain, due and payable. Under certain circumstances, also future claims (i.e. claims that are not yet due) can be secured with a conservatory seizure, for example future claims under a lease agreement.

4. **What about the urgency requirement?**

In general, there is no such requirement under Dutch procedural law. However, in the request for the required leave to levy the seizure, the claimant should demonstrate to the judge that his request is proportional, i.e. that the claim cannot be secured by putting in place seizures that are less of a hindrance to the defendant. Furthermore, when requesting seizure on real estate or certain other types of assets, the claimant needs to demonstrate that there is a risk that the defendant will remove or dissipate his assets from the jurisdiction. The judge will only examine this matter very briefly.

5. **What is the procedure to obtain a seizure? What is the typical time frame?**

A unilateral (“ex parte”) petition, setting out the claim and including all documentary evidence, must be filed with the President of the competent District Court.

The judge usually decides within one

working day following the filing of request. If the judgment is positive, it must then be served by a bailiff to actually effectuate the seizure.

6. **Are there any language requirements?**

The petition, the documentary evidence and the notifications by the bailiff should be in Dutch. If the documentary evidence is in another language, a translation of the document must be included, unless the documentary evidence is in English or simple German or French.

7. **Is it required to start proceedings on the merits?**

When proceedings on the merits are not yet pending when the judge decides on the seizure request, the judge (when granting the request) will set a certain period (usually 14 days) for starting such proceedings on the merits as a condition to maintain the seizure.

## Executory Seizure

8. **How is a payment order enforced?**

An executory seizure requires an enforceable title, such as a judgment on the merits. A judgment from a Member State of the EU is enforceable

within the EU without any exequatur proceedings being required.

The executory seizure is performed by a bailiff. Before proceeding with the executory seizure, the bailiff will serve

a final notice unto the debtor to pay within two days. If the debtor does not pay the total amounts due within this period, the bailiff can proceed with the seizure (and subsequently the sale of the attached goods) to cash the claim.

## Recovery of Uncontested Claims

9. **Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?**

Apart from the procedure provided by the EOP Regulation, it is not possible under Dutch law to recover uncontested monetary claims that are

due and payable via a bailiff, without legal proceedings being necessary. This is only different in case the monetary claims from authentic instruments that are already enforceable themselves (such as certain notarial deeds).

# NETHERLANDS

## Contact

Lexence  
Amsterdam  
www.lexence.com

**BRAM THOMAS CRAEMER**  
Partner  
T: +31 20 5 736 763  
E: b.t.craemer@lexence.com

**TIMO JANSEN**  
Partner  
T: +31 20 5 736 842  
E: t.jansen@lexence.com

**ARNOUT SCHENNINK**  
Partner  
T: +31 20 5 736 867  
E: a.schennink@lexence.com



## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

There is no general asset register or database in Poland.

The following tools are, however, available:

- Land and Building Register: The information in the Land and Building Register is public. If you believe that a real estate belongs to your debtor, you can obtain various information about the property (e.g. its value, its owner, its owner's domicile). From this register you can obtain information about real property that does not have a land and mortgage register kept for them.
- Land and Mortgage Register: The information in the Land and Mortgage Register is public. An excerpt from the land and mortgage register (based on the domicile of your debtor) provides you with an overview of the real estate relating to which the debtor has any property in rem rights and whether mortgages are vested on the property. This can be obtained online.
- National Courts Register:

- Companies' register:
  - If you believe that your debtor is a partner in a partnership, you can obtain various information about it (e.g. partners, registered office, etc.). This can be obtained online.
  - If you believe that your debtor holds shares in a private limited liability company, you can obtain various information about it (e.g. shareholders, registered office, etc.). This can be obtained online.
  - If you believe that your debtor holds shares in a private joint-stock company, you can obtain various information about it, except for shareholding structure. This can be obtained online.
- Registered pledge register:
  - If you believe that your debtor has established a registered pledge on a particular asset, you can verify this using data disclosed in this register.
- Central Register of Vehicles: you can file a request for information about the debtor's car (registration number, brand and year of construction). To obtain this information

you have to provide documents proving your legal interest in obtaining this information.

- Request for disclosure of property items: If the debtor's property attached in enforcement proceedings appears insufficient to satisfy the enforced claims or if the creditor proves that the enforcement did not satisfy all his claims, the creditor may request that the debtor be ordered to submit a list of his assets and property.

The creditor may also request disclosure of property items prior to the commencement of enforcement if:

1. They substantiate that they will not have their entire claim satisfied from the property known to them or from current periodic payments due to the debtor for the period of six months;
2. Having obtained an enforcement title, the creditor has sent a demand to the debtor to pay the amount ascertained therein by registered letter against acknowledgment of receipt, and the debtor fails to pay within 14 days following the receipt of the demand.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

All movable assets owned by the debtor: movable property, remuneration for work, bank account receivables, other receivables or other property rights. The debtor's immovable property may be encumbered with compulsory mortgage. The debtor's ship or ship under construction may be encumbered with maritime mortgage. It is also possible to establish receivership over an enterprise, agricultural farm or plant constituting part of the enterprise or over part of the enterprise or the agricultural farm.

In the executory seizure, in some instances, such as some assets from government bodies, or goods necessary to provide in basic needs for consumers, are specifically excluded by law.

### 3. What type of claims can be secured with a conservatory seizure?

All claims, pecuniary and non-pecuniary.

It is possible to secure a claim that is not due as soon as it becomes due before the hearing is closed. One cannot request a conservatory seizure to secure a claim that may arise in the future.

### 4. What about the urgency requirement?

Strictly speaking, there is no such thing as urgency requirement in the provisions concerning the conservatory seizure. Still, the applicant must show that his claim is probable and there is also legal interest. Legal interest exists if the lack of security or injunction will render the performance of ultimate decision impossible or significantly hinder such performance or otherwise render the goal of the process unachievable or significantly hinder the achievement of that goal.

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

This is an ex parte proceeding. A motion setting out the claim, factual circumstances and legal interest, including the necessary documentary evidence, must be filed with the competent court.

In theory, a motion shall be heard promptly, but not later than within one week. In practice, however, the courts usually decide upon the motion within a month from filing. If the judgment is positive and enforceable by way of enforcement, the provisions on enforcement proceedings apply accordingly to the enforcement of the order, except that the court shall ex officio issue a writ of enforcement to the order granting security or injunction.

An application to commence enforcement proceedings should be filed with the competent court or bailiff.

### 6. Are there any language requirements?

The motion and the attached evidence should be in Polish. Translations are required.

### 7. Is it required to start proceedings on the merits?

Yes, once the motion has been granted. When granting security or injunction before main proceedings are initiated, the court shall set a time limit for filing of the claim. If the time limit is not observed, the security will expire. Such time limit may not exceed two weeks.

The executory seizure is performed by a bailiff. After receiving the application to commence enforcement proceedings the bailiff will search for the debtor's property.

## Executory Seizure

### 8. How is a payment order enforced?

An executory seizure requires an enforceable title, such as a judgment on the

merits. After obtaining the enforceable title the creditor should file an application to commence enforcement proceedings with a competent court or a bailiff.

## Recovery of Uncontested claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

Generally, no. It is doable, but requires a special instrument to be drawn by a notary in advance. The instrument needs to be formally authorized by a court, i.e. turned

into an enforceable title. Applications for a writ of enforcement shall be heard by the court within three days.

# POLAND

## Contact

Domański Zakrzewski Palinka sp.k.  
Warsaw, Poznan  
www.dzp.pl

**PAWEŁ LEWANDOWSKI**  
Partner | Dispute Resolution  
T: +48 22 557 76 40  
E: pawel.lewandowski@dzp.pl

**BARTOSZ KAROLCZYK**  
Senior Associate | Dispute Resolution  
T: +48 22 557 86 86  
E: bartosz.karolczyk@dzp.pl





# PORTUGAL



## Contact

FCB Sociedade de Advogados  
Lisbon  
www.fcblegal.com

**RUITABARRA E CASTRO**  
Partner | Head of Dispute Resolution  
T: +351 21 358 7500  
E: rc@fcblegal.com

**LUÍS FALCÃO RAMOS**  
Associate | Dispute Resolution  
T: +351 21 358 7500  
E: lfr@fcblegal.com

## Asset Tracing

1. **What kind of information on the assets is publicly available? How is it obtained?**

There is no public access assets search database available. The information

about the debtor's seizable assets may only be obtained by an enforcement agent through the available databases under an enforcement procedure brought against the debtor. Notwithstanding this, the applicant may

request at the relevant register certified information regarding any specific asset that he is aware of, such as vehicles, real estate, shares in companies, etc.

## Conservatory Seizures

2. **What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?**

All of the debtor's assets can be subject to a conservatory seizure. Only inalienable objects or rights, assets from government bodies or especially intended for public worship, or whose seizure would be offensive to good manners or would not make economic sense due to its insignificant market value, tombs, instruments which are essential for the disabled and objects intended for treating the sick and pets are specifically excluded by law. Also exempt from seizure are the working tools and objects essential for the debtor's professional activity or vocational training, except if:

- i. the debtor indicates they can be seized,
- ii. the enforcement is for the payment of their purchase price or repair cost, or
- iii. they are seized as elements incorporated in a commercial establishment.

There is also exempt from seizure two thirds of the income, salaries, retirement pension or any other social benefit, insurance, accident indemnity or annuity, or any other pensions of a similar nature, until the maximum limit equivalent to three national minimum wages at the time of each seizure and a minimum limit, when the debtor has no other income and the claim demanded is not for maintenance of, the equivalent

of one national minimum wage. In the seizure of money or of a current account bank balance, the overall amount equivalent to one national minimum wage cannot be seized.

3. **What type of claims can be secured with a conservatory seizure?**

Only credit claims may be secured with a conservatory seizure, provided that the applicant produces evidence about

- i. the likely existence of his right (fumus boni juris) and
- ii. the alleged fear of losing the asset guarantee (periculum in mora).

4. **What about the urgency requirement?**

The applicant must produce evidence of a serious and concrete risk that the lack of seizure could compromise the credit recovery in a main lawsuit (e.g., there is the risk of the debtor becoming insolvent, or the debtor's assets being sold, hidden or even destroyed).

5. **What is the procedure to obtain a seizure? What is the typical time frame?**

The applicant must submit an initial application to the court providing summary proof of (i) the likely existence of his right (fumus boni juris) and (ii) the alleged fear of losing the asset guarantee (periculum in mora).

All testimonial and documentary evidence must be submitted with the application. The application must also identify the debtor's assets to be seized. The seizure is ordered ex-parte

(i.e., without hearing the other party), provided that the legal requirements are deemed to be satisfied. Following the seizure, the debtor is notified to (i) appeal against the order if he considers that, in light of the facts, it should not have been granted or (ii) lodge an opposition if he wishes to put forward facts or produce evidence not taken into account by the court that may remove the grounds for the conservatory measure or cause it to be reduced. All protective measures are regarded as urgent, taking priority over any other non-urgent judicial acts, and must be decided at first instance within two months at most or, if the defendant does not have to be summoned, within 15 days.

6. **Are there any language requirements?**

All statements, applications and evidence must be produced in Portuguese.

7. **Is it required to start proceedings on the merits?**

Upon request, the judge may relieve the applicant's burden of bringing the main action if the material acquired in the proceedings has led him to believe that the safeguarded right is real and the nature of the measure decreed is appropriate to reach final settlement of the dispute. Otherwise, the applicant must file the main action within 30 days from the date on which he was notified that the decision seizure order became final and unappealable.

## Executory Seizure

8. **How is a payment order enforced?**

Depending on the enforcement title and / or the amount of the receivables, the enforcement procedure starts with the debtor's summons or with the seizure of his assets. Normally, all measures involved in the enforcement procedure are carried out by an enforcement

agent, acting under the supervision of the judge. After being summoned, the debtor may lodge an opposition within the following 20 days. As a general rule, the enforcement procedure is not stayed unless the debtor offers to provide any type of guarantee (which should include principal, late

payment interests and estimated court costs). The debtor may also lodge an opposition against a specific seizure within the following 20 days from the date of the seizure's notification. Under the enforcement procedure, the debtor's assets will be sold to pay the receivables and all the court costs.

## Recovery of Uncontested Claims

9. **Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?**

Portugal has a national order for

payment procedure, under which the debtor is notified to pay the overdue debt (plus interest and certain expenses) within the following 15 days or to lodge an opposition to the procedure. If the debtor does not lodge

an opposition, the order for payment is declared enforceable without any court intervention. If, on the contrary, the debtor lodges an opposition, the order for payment procedure is converted into a normal recovery action.



## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

There is no general asset register or database in Slovakia.

The following tools are, however, available (official registers):

- Land and Building Register: The information in the land and building register is public. If you believe that a real estate belongs to your debtor, you can obtain various information about the property (e.g. its owner, its owner's domicile, if there are any pledges on the property).
- Commercial Register:
  - If you believe that your debtor is a partner in a partnership, you can obtain various information about it (e.g. partners, registered office, etc.). This can be obtained online.
  - If you believe that your debtor holds shares in a private limited liability

company, you can obtain various information about it (e.g. shareholders, registered office, etc.). This can be obtained online.

- If you believe that your debtor holds shares in a private joint-stock company, you can obtain various information about it, except for shareholding structure. This can be obtained online.
- Notarial Register of Pledges:
  - If you believe that your debtor has established a registered pledge on a particular asset, you can verify this using data disclosed in this register.
- Commercial Gazette:
  - The Commercial Gazette contain information on natural persons or legal entities that they are obliged to publish in the Commercial Gazette. If you believe your debtor is in bankruptcy or restructuring proceedings, you can do a search online.
- Register of Financial Statements:

- Natural persons that are entrepreneurs and legal entities are obliged to file their financial statements to the relevant tax office, which are then publicly available in the Register of Financial Statements.

- Central Register of Enforcements:
  - If you believe that your debtor is subject to any enforcement proceedings, you can verify this on the basis of a request to the register.
- Registers of Debtors of Social Insurance, Health Insurance and Taxes:
  - If you believe that your debtor owes money for social or health insurance or taxes, you can do a search via the relevant registers of these authorities.

It is also possible to obtain information on the creditworthiness of natural persons or legal entities through various registers held by private companies. These usually gather information from the above registers and one can obtain reports on the debtors.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

Slovak law does not specify which assets exactly can be subject to conservatory seizure (securing measure), it just generally states that it can be any items, rights or property values of the debtor. Likewise it does not specify, which assets are excluded.

The following is exempt from executory seizure: certain assets of the state, basic amounts that must not be executed from the wage of the required, amounts of up to €165 in the bank account of the required and funds that are on the basis of a express representation of the required to be used to pay the wages of the employees to the payment date closest to when the

execution order was delivered to a bank, certain social benefits, VAT under specific conditions, tangible assets that are used or related to conducting business, assets that are in the possession of the required and deemed necessary for the basic needs of the debtor and his family or assets, whose sale would be in contradiction with moral principles.

3. What type of claims can be secured with a conservatory seizure?  
Only pecuniary claims.
4. What about the urgency requirement?  
The applicant must provide a description of the concern that enforcement may be jeopardized.
5. What is the procedure to obtain a seizure? What is the typical time frame?

The procedure is initiated on the basis of an application by the applicant that must be filed to the relevant district court. As stated above, the application must, inter alia, contain a description of the concern that enforcement may be jeopardized.

A conservatory seizure shall be issued within 30 days from the delivery of the application to the relevant district court.

6. Are there any language requirements?  
The court proceeding shall be in Slovak. All applications must be either in Slovak or translated into Slovak.
7. Is it required to start proceedings on the merits?  
No, it is possible to issue a conservatory seizure before, during and after proceedings on the merits.

## Executory Seizure

### 8. How is a payment order enforced?

An executory seizure (order) requires an enforceable payment order. After obtaining the enforceable payment order, the authorized must file an electronic application to the District Court of Banská Bystrica to commence enforcement proceedings, which shall then randomly under the conditions of the relevant

act authorize a bailiff to perform the enforcement.

Once conditions are fulfilled, the bailiff shall issue a notice of the commencement of enforcement proceedings, by which he shall (i) notify the authorized and the required (person/entity required to pay the sum) on the commencement of enforcement and the method and (ii) order the required

to pay the sum. The required also has the right to file for the stoppage of execution within 15 days from receiving the above mentioned notice.

If all the conditions are further fulfilled, the bailiff shall issue an execution order by which the enforcement of the payment order shall commence by the bailiff.

## Recovery of Uncontested Claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

It is not possible to recover uncontested claims without a court intervention. It is however possible to obtain an enforceable title without a court intervention. Such would be a notarial document – notary

minutes, which would contain the legal obligation, the authorized and required person, the legal reason, object and time of fulfillment, if the required person agreed with the enforcement.

# SLOVAKIA

**Contact**  
BEATOW PARTNERS  
Bratislava  
www.beatow.com

**OLIVER WEBER**  
Partner | Head of Litigation  
T: +421 905 396 450  
E: oliver.weber@beatow.com

**DANIEL STRAKA**  
Senior Associate  
T: +421 907 319 172  
E: daniel.straka@beatow.com



## Asset Tracing

### I. What kind of information on the assets is publicly available? How is it obtained?

There is no asset registry or database in Spain. The following sources are, however, available:

- Real estate, an excerpt from the Land Registry which provides a description of the real estate owned by the debtor including any mortgages, easements and charges registered against it.

- Trademarks and patents, registered with the Spanish Office of Patents and Trademarks "OEPM",
- Companies financial information, Spanish companies have an obligation to publish their annual financial reports in the Mercantile Registry. Except for stock exchange listed companies, little information is available publicly, apart from the general financial situation and the names of the company's director or general power holders.

- Insolvency Registry, which publishes basic information of companies with Court insolvency proceedings.
- Company information data bases, such as Informa or Axesor that provides company reports and information on companies, including a basic reference to judicial actions brought against them.
- Private investigators can also be retained to trace and locate debtor's assets.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

All type of assets owned by a debtor, tangible, intangible, moveable and immoveable, including real estate, machinery, bank accounts, trademarks and patents and credits. Where the debtor is a natural person, assets and income used to cover basic living needs of the debtor and his/her dependents cannot be seized. The same applies to executory seizures.

### 3. What type of claims can be secured with a conservatory seizure?

All claims, provided that the competent Court is satisfied of certain requirements, namely: (i) a good and arguable case "fumus boni iuris"; (ii) there is evidence of the existence of a risk of dissipation of assets to the point that the final decision on the merits may not be enforced unless the debtor is restrained by a freezing or attachment order over its assets ("periculum in mora"); and (iii) a security deposit or bond must be deposited by the requesting party in order to indemnify the defendant in the event the event that the final decision does not grant the relief sought by the claimant and the temporary injunction or conservative seizure is revoked.

### 4. What about the urgency requirement?

In emergency situations the Court may order conservatory seizure "ex parte", within one to three days but the Court would usually request from claimant a security deposit.

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

The general rule under the Spanish Civil Procedural Law is that interim measures (assets attachment and seizure, court administration of assets and companies etc.), are usually granted upon a party's request and after a hearing takes place where both parties can defend their respective positions and present the relevant evidence. However, interim measures can be extraordinarily accorded "ante causam" and with no hearing or without even notifying the defendant if they are required for urgent reasons which must be sufficiently evidenced. Therefore, the requesting party is required to demonstrate: the reasons for the urgency, and the reasons why the notice to the defendant, thus the call to a hearing would imply an additional risk to the general risk required under an ordinary interim measures request.

A Court hearing, with the presence of the parties, takes place prior to the judgement, which can confirm, modify or revoke any

interim measures previously granted. If the judgement is positive, it can be executed, upon the party's request, provisionally, if the judgment is appealed, or definitively if the judgement is final. In many cases, a previous search of the assets of the debtor is necessary to be carried out through the Court and upon request of the claimant to find out any debtor's asset to seizure or execute.

The typical time frame to obtain a seizure order is 2 months from filing the petition.

### 6. Are there any language requirements?

Yes. The petition must be filed in Spanish or other official language of the region (e.g. Catalan, Euskera). Documentary evidence must also be filed in Spanish or any other official language of the competent Court and, at the judge or the counterparty's request, it needs to be translated into Spanish (or any other official language of the competent Court) by an official translator.

### 7. Is it required to start proceedings on the merits?

Yes, either simultaneously with the seizure petition or, in case of "ante causam" interim measures, within a term of 20 days from the date the Court has granted the requested measure.

## Executory Seizure

### 8. How is a payment order enforced?

An executory seizure requires an enforceable payment order. If the debtor fails to satisfy the judgment with a payment within 20 days, and upon request, the Court clerk shall issue an order to move proceedings forward and shall contact the financial institutions, public registries, and any other entities or persons so that they shall provide the list of any assets and rights of the debtor which they know of. As a result, enforcement proceedings will be

more efficient and faster when the debtor's assets can be identified.

The assets shall then be attached in the following order: (i) cash or bank accounts of any kind; (ii) credits and rights realizable immediately or in the short term, and securities or other financial instruments admitted for negotiation on an official secondary securities market; (iii) jewels and works or arts; (iv) income in cash, regardless of its source and the reason for its accrual;

(v) interest, income and revenues of any kind; (vi) moveable property or livestock, shares, titles or securities not admitted to official listing, and company shares; (vii) real estate; (viii) wages, salaries, pensions and income from self-employed professionals and commercial activity; (ix) credits, rights and securities realizable in the medium and long term. The debtor may negotiate alternative arrangements or appeal the enforcement order, however the appeal would not suspend the enforcement proceedings.

## Recovery of Uncontested Claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

Other than under the EOP Regulations, until 2015 there was no procedure in Spain to recover uncontested claims without a Court intervention. Since October 2015, the claim for payment can be also done through a notary, although it is not often used. If the buyer recognizes the debt (or fails to appear within 20 days from the claim notification), the

process becomes an attachment proceeding against the debtor assets. The attachment proceeding must always be executed through the Court. If the buyer doesn't recognize the debt, however, the process becomes an ordinary process.

When the debtor has assets in other EU Member States, an EPO procedure facilitating the recovery of undisputed debts (under Regulation EC 1896/2006) may be triggered. In this case, the claimant may request a

domestic court to issue an order to pay which will then be enforceable in all European Union countries (except those that opted out) without exequatur proceedings.

Commercial claims, based on transactions that occurred before October 2015, can be brought to court within 15 years. After October 2015, must be claimed within five years. Promissory notes and cheques, must be claimed within a term of three years.

# SPAIN

**Contact**  
ECIJA

Barcelona, Madrid  
www.ecija.com

**MAITE MASCARÓ**

Partner | Dispute Resolution,  
Litigation & Corporate  
T: +34 933 808 255  
E: mmascaro@ecija.com

**JAVIER LÓPEZ**

Partner | Dispute Resolution,  
Litigation & Real Estate  
T: +34 917 816 160  
E: jlopez@ecija.com



## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

There is no official registry or database for assets of a debtor in Switzerland. The following tools are, however, available:

- For real estate, an excerpt from the local land registry (at the place of the real estate) can be obtained. The excerpt only gives basic information on the property and the name of the owner but not, for instance, on

mortgages. No search by owner name is possible.

- In a limited number of Cantons an extract from the tax register can be requested which provides basic figures of taxable income and assets but not their composition or location. A tax payer can request the tax authority to block his data so that information will be provided only in exceptional cases.
- A very common and frequently used instrument to assess the financial situation of a debtor is to request an extract from the debt enforcement

register which provides detailed information of debt enforcement procedures started in the last 5 years. This reveals nothing about the assets but at least gives an indication of whether the debtor already has a poor track record of honoring his financial obligations.

- It must be noted that legal entities are not required to publish annual reports or make them otherwise available to third parties, with the exception of companies listed at a stock exchange.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

Generally all assets held by the debtor are subject to seizure, with the exception of assets that cannot (reasonably) be realized. This includes any type of moveable assets, real estate, intangible assets and claims, in particular also wages. If and to the extent assets and income of a natural person are used for basic needs and those of persons dependent on him / her, they cannot be seized. The same applies to executory seizures.

enforceable title for execution, in particular a judgment or similar title.

Conservatory measures for non-monetary claims depend very much on the type of claim and may only aim at facilitating later enforcement, yet not amount to an enforcement before a judgment is rendered. Generally, the creditor must be able to show that his claimed right is likely to be violated and that this may cause harm that cannot easily be repaired. E.g. for real estate subject to a dispute, a blocking order can be registered in the land register.

### 3. What type of claims can be secured with a conservatory seizure?

Money claims can be secured only if specific requirements are met, namely (i) if there are certain elements set out in the law which indicate that the enforcement of a claim may be endangered or difficult (e.g. the debtor hiding assets or not being resident in Switzerland) or (ii) if there is an

### 4. What about the urgency requirement?

There is no urgency requirement for monetary or non-monetary claims. Only if non-monetary claims are to be dealt with in unilateral (ex parte) procedures, urgency must be shown.

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

Monetary claims are dealt with in an ex parte procedure, setting out the

### 6. Are there any language requirements?

The petition must be filed in the language of the competent court, which depending on the location is German, French or Italian. Documentary evidence may be filed in another language without necessity to provide a translation in particular for documents in any of the official languages of Switzerland just mentioned and English. The court may, however, request that translations be provided.

### 7. Is it required to start proceedings on the merits?

Yes. For monetary claims this is within 10 days and in other cases depending on the time limit set by the judge, usually 20 – 30 days.

## Executory Seizure

### 8. How is a payment order enforced?

An executory seizure requires an enforceable payment order. The same is issued at the request of the creditor and, if opposed to by the debtor, the claim is reviewed in summary proceedings by a court who will either

set aside the opposition or confirm it, thus forcing the creditor to start ordinary proceedings (or to abandon his claim). The payment order will be confirmed if there is written proof of debt with signature of the debtor or an enforceable title, such as a

judgment. Foreign judgments do not require formal recognition proceedings (exequatur), yet a separate procedure or a separate request in the same procedure is possible.

The executory seizure is carried out by the local debt enforcement office.

## Recovery of Uncontested Claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

The way to enforce a money claim always starts with a payment order issued by the local debt enforcement office. Only if that remains without the debtor's opposition (which rarely ever happens) can enforcement proceed without court intervention.

# SWITZERLAND

## Contact

Wenger & Vieli  
Zurich, Zug  
www.wengervieli.ch

## GEORG ZONDLER

Partner | Litigation & Arbitration  
T: +41 58 958 58 58  
E: g.zondler@wengervieli.ch



## Asset Tracing

### 1. What kind of information on the assets is publicly available? How is it obtained?

There is no general asset registry or database in Turkey. However, the following tools are available:

- Land Registry Records are publicly available. However, there is no online database. One can look into the land registry records by going in person to land registry office, at the location of the estate in question. It should be

noted however that it is not possible to carry out a general research based on the debtor. A search in the land registry records must be originated from the real estate in question.

- Motor Vehicle Registry records are also publicly available. However, there is no online database. Just as it is the case with the land registry records, a general research cannot be conducted based on the debtor. In order to conduct a research on motor vehicle Registry records, information on the vehicle is needed.

- If the debtor holds any share in a legal entity registered with Istanbul Commercial Registry, an excerpt, which provides information on the number of his shares and the nominal value of those shares, can be obtained from the Registry.
- For intellectual properties (trademarks, patents, designs, etc) Turkish Patent Agency records are publicly available and a research can be conducted in the online database of the Agency, based on the information of the debtor.

## Conservatory Seizures

### 2. What assets can be subject to a conservatory seizure? Are any assets excluded from a conservatory seizure? Does the same apply to an executory seizure?

All assets owned by the debtor can be subject to conservatory seizure. This includes both tangible assets, such as real estate, machinery, cash, vessels and vehicles etc. and intangible assets, such as patents, trademarks etc.

If the debtor is a natural person, assets that might deprive him of his basic needs cannot be seized. There are also certain exceptions foreseen for some professions and person of certain statute, such as agriculturists, retired persons etc.

The above apply for executory seizures as well.

As per the Maritime Section of the Turkish Commercial Law, a conservatory seizure on a vessel can only be attached for maritime debts.

### 3. What type of claims can be secured with a conservatory seizure?

Any pecuniary due debt that is not secured by a pledge, can be subject to

conservatory seizure. A conservatory seizure can also be applied even if the debt is not yet due, in case the debtor does not have any legal residency in Turkey or if there is a risk that the debtor might hide or eliminate his/her assets.

### 4. What about the urgency requirement?

The creditor must produce evidence of a serious and concrete risk that the lack of seizure could compromise collection of debt (for example, risk of insolvency, assets being sold or hidden etc.)

### 5. What is the procedure to obtain a seizure? What is the typical time frame?

A written application setting out the claim, including factual circumstances into the debt, the urgency of the matter, together with the documentary evidence, must be filed with the competent local court.

If the court accepts the application, it renders a decision for an order for seizure that needs to be executed by the enforcement authority.

The Court would require the creditor to deposit a security for any damage

that the enforcement of the order may cause the debtor. The creditor can be exempted from depositing a security for the seizures based on debts secured by court decision or a similar certificate.

The debtor must apply to the competent enforcement office for the attachments of liens within ten days following the date of the conservatory seizure ruling rendered by the Court. Otherwise the conservatory seizure ruling will ipso facto become null and void.

### 6. Are there any language requirements?

The applications to the courts and the enforcement offices must be in Turkish. Also the evidences must be submitted in Turkish. If there are certain evidences in other languages, their translations into Turkish, should be submitted.

### 7. Is it required to start proceedings on the merits?

The creditor must file a lawsuit or initiate enforcement proceedings within seven days from the date on which the conservatory seizure is attached to the assets of the debtor.

and prove that the debtor owes the outstanding amount to the creditor. If the objection is annulled and becomes definite, the creditor can proceed with the enforcement and attach liens over the assets of the debtor and proceed with the enforced sale of the said assets.

## Executory Seizure

### 8. How is a payment order enforced?

An enforcement proceeding should be initiated before the enforcement offices. If the debt is an unsecured pecuniary claim, a payment order has to be sent to the debtor, allowing him a period of seven days to pay the outstanding

amount. Upon receipt of the payment order, the debtor can either pay the amount or object to the payment order. If objected, the enforcement proceeding stops. In order to continue with the proceeding, the creditor has to file a lawsuit to annul the objection

## Recovery of Uncontested Claims

### 9. Is it possible in your jurisdiction to recover uncontested claims and to obtain an enforceable title without a court intervention?

Unless the debt is secured with a bank letter of guarantee, the creditor has to apply to judicial authorities to collect even uncontested debts.



# TURKEY



## Contact

Yarsuvat & Yarsuvat Law Firm  
Istanbul  
www.yarsuvat-law.com.tr

### NİLÜFER ÇAKMAKLI

Of Counsel  
T: +90 212 345 0600  
E: ncakmakli@yarsuvat-law.com.tr

### BURÇIN SISMANYAZICI

Attorney  
T: +90 212 345 0600  
E: bsismanyazici@yarsuvat-law.com.tr