

Tracing and Attaching Bank Accounts in EU Cross-border Insolvency Proceedings

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Creditors often request judicial authorities to order the attachment of the debtor's bank accounts as a pre- or post-judgment measure to protect their claims. Pre-judgment measures include ante and in causam preservation orders.

When it comes to insolvency proceedings, *ius standi* to apply for such provisional measures usually relocates to insolvency practitioners. This also occurs in relation to third parties' bank accounts that are of interest to the proceedings.

Bank account seizures feature some complexities in cross-border cases. The paper aims to determine i) the EU instruments that help insolvency practitioners deal with such complexities and ii) to what extent such instruments provide efficient solutions. The survey will be engaged under the 'usual' EU concerns with respect to insolvency proceedings: efficiency, smoothness, and rapidity.

Regulation (EU) 2015/848 (EIR) plays the primary role. It establishes extraterritorial powers of insolvency practitioners and governs the coordination between the *lex concursus* and the law of the State in which the bank account is located, especially as to the available means to attach the accounts.

Since attaching requires a preliminary tracing, getting information about the account ownership and location should be timely, too, for the efficiency of insolvency proceedings. The EIR helps determine where a bank account (not necessarily the debtor's own) is located. Its regime of cooperation and communication between authorities may be further helpful.

The EIR works with other EU instruments. Interesting is the interplay with Regulation (EU) No 655/2014, which has instituted the European Account Preservation Order (EAPO) procedure to facilitate cross-border debt recovery in civil and commercial. The paper will clarify when and how insolvency practitioners may avail of an EAPO.

Finally, the paper weighs the foregoing framework of tools against the provisions concerning bank accounts in the 2022 EC Proposal for a Directive on harmonising certain aspects of insolvency law with the aim of assessing what substantially the envisaged instruments would add.